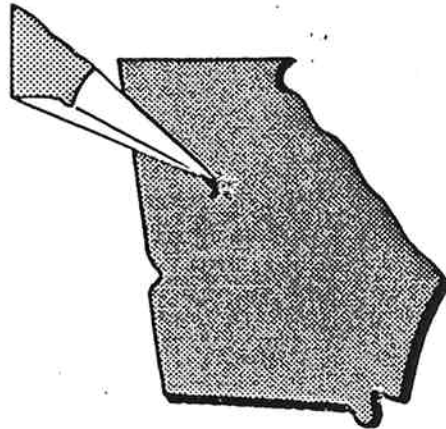


A Study of the Legal Structure of the Office of Chief Executive Officer and the Board of Commissioners of DeKalb County, Georgia



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**A STUDY OF THE
LEGAL STRUCTURE
OF THE OFFICE
OF CHIEF EXECUTIVE
OFFICER AND THE
BOARD OF COMMISSIONERS
OF DEKALB COUNTY, GEORGIA**

for the
Chief Executive Officer
and the Board of Commissioners
of
DeKalb County, Georgia

by

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Athens, Georgia 30602

October 1986

Foreword

This study was conducted in response to a request from the Chief Executive Officer and the Board of Commissioners of DeKalb County. Mr. J. Devereux Weeks, legal research associate, was project director, and Dr. Lawrence R. Hepburn, educational research associate, was associate project director. Mr. Kenneth A. Duke, legal research specialist, was responsible for most of the painstaking research of the numerous laws previously and currently pertaining to DeKalb County and for initial drafts of many of the legal portions of this report. These persons together developed and wrote this report.

In addition to securing information from selected county-executive counties in other states, Dr. Hepburn individually interviewed the Chief Executive Officer, members of the Board of Commissioners, and the Executive Assistant to learn what they viewed as legal impairments to the smooth functioning of the office of the Chief Executive Officer and the Board of Commissioners. Sincere appreciation is expressed to them for their valuable assistance with this study.

Data were obtained from local and general laws and constitutional provisions of Georgia pertaining to DeKalb County, county ordinances and minutes, interpretive court opinions, previous reports examining and recommending changes in the DeKalb County government, and from selected county-executive counties and the laws of other states. Additional technical data and assistance were obtained from Ms. Gretta M. Dewald, Executive Assistant, and Mr. A. Sidney Johnson, County Attorney, as well as other DeKalb County officials. Gratitude is expressed to these individuals for their assistance with this study.

Richard W. Campbell
Administrator
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of Government

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INTRODUCTION AND FORMAT

The purpose of this study is to provide the Chief Executive Officer (CEO) and the Board of Commissioners (Board) of DeKalb County with necessary law and related information pertaining to the current legal structure of the office of the CEO and the Board. This report is based upon data from a number of sources: the laws, constitutional provisions, and court opinions pertaining to DeKalb County; county ordinances, minutes, and previous studies of DeKalb County government; information from the confidential interviews of the CEO, the board members, and the executive assistant; and laws and other materials from selected counties in other states which have a similar form of government to DeKalb County. Since the purpose here is to provide data and information to permit consideration of possible alterations in the legal structure of the office of CEO and the Board, the report is divided into separate parts, subparts, and appendices, each written as concisely as possible. Part II, C., contains the major findings and suggestions. An outline of the report follows:

- Part I. A Brief History of DeKalb County Government from 1886 to 1986: a review of major changes in the form of government of the county
- Part II. Current DeKalb County Form of Government, County Boards and Authorities, and Major Findings and Suggestions
 - A. Elected County Executive--County Commission Government, DeKalb County Georgia: a summary description of the powers granted to the CEO and the Board by the 1981 reorganization act as amended
 - B. Chief Executive Officer and Commission: Powers of Appointment to Boards, Authorities, Councils, Commissions, and Advisory Committees: a listing of such bodies in, or operating in, DeKalb County, together with a summary description of the law governing the making of appointments to these bodies
 - C. Major Findings and Suggestions Concerning the Laws Governing the Chief Executive Officer and the Board of Commissioners of DeKalb County: a brief description of the findings pertaining to the laws granting to the CEO and the Board their respective powers

- Part III. Major Problems and Suggestions Brought Out in Confidential Interviews of the CEO, the Board Members, and the Executive Assistant: a brief summary of problems revealed and suggestions made by these officials concerning the legal structure of and interaction between the CEO and the Board
- Part IV. Legal Structure of Selected Chief Executive County Governments in Three Other States and How They Compare to DeKalb County Government: a summary description of the laws creating the county executive form of government in Mercer County, New Jersey; Montgomery County, Maryland; and Oakland County, Michigan, followed by a chart revealing selected similarities and differences between DeKalb and these other counties
- Appendix A. DeKalb County Local Acts and Constitutional Amendments Specifically Referring to DeKalb County, Designated in Volume 42 of Official Code of Georgia Annotated as Current Law
- Appendix B. Population Acts Pertaining to DeKalb County, Designated in Volume 42 of Official Code of Georgia Annotated as Current Law
- Appendix C. DeKalb County Form of Government Reorganization Acts of 1956 and 1981 As Amended: A Comparison of the Major Characteristics of the Chief Executive Officer and Commission

Part I.

A BRIEF HISTORY OF
DEKALB COUNTY GOVERNMENT FROM 1886 TO 1986

The history of government forms in DeKalb County, Georgia is complex. In the last hundred years, the county has undergone numerous, occasionally incremental, but often radical changes in its governmental form. Although most of these might be viewed as variations on the county commissioner form, many cannot be so easily described, and others are often notable for the subtlety of their variation.

The first Board of Commissioners of Roads and Revenues was created by an act of the General Assembly in 1886 (Ga.L. 1886, p.258). This board consisted of five members who were elected by the county grand jury at first, and later by the qualified voters of the county, after the General Assembly again amended the original act (Ga.L. 1890-91, Vol.II, p.905). This early board had broad powers for controlling all the property of the county, levying taxes, and exercising such other powers indispensable to its jurisdiction over county matters and county finances. However, after ten years under the board of commissioners form of government, the creating act was repealed (Ga.L. 1896, p.275), and DeKalb County reverted back to its previous governmental form--most likely to be governed by the ordinary.

In 1902, the General Assembly again created a Board of Commissioners of Roads and Revenues consisting of five members, elected by the qualified voters of the county from five road districts. The board had extensive jurisdiction similar to that held by the first board and the ordinary (Ga.L. 1902, p.207). This act was repealed by referendum in 1904, and the board was abolished (Ga.L. 1904, p.255). This same repealing act established the office of ordinary with the same powers and duties as held by the earlier board.

DeKalb County operated under the guidance of the ordinary for two years, until 1906, when the General Assembly passed an act creating a sole commissioner who had essentially the same authority as the board of commissioners abolished by referendum in 1904 (Ga.L. 1906, p.405). In 1912, the General Assembly effectively repealed the 1906 act and created a board elected from five road districts by the grand jury, with essentially the same jurisdiction as the board of 1902 and the ordinary (Ga.L. 1912, p.361). By an act of 1918, the five member board was elected from five road districts by the qualified voters of the county (Ga.L. 1918, p.425).

In 1953, the General Assembly passed an act, subject to referendum, which would have created a board of commissioners consisting of a chairman elected by the qualified voters, who would have been chief executive officer, and four members to be appointed by the grand jury. The chairman would have exercised very broad powers individually (roughly equivalent to the earlier boards and ordinaries), and the chairman and board together would have served as a committee of finance and control. However, this act failed to pass at the referendum (Ga.L. 1953, Jan-Feb Sess., p. 3249).

The chairman and board form of government was finally enacted by the General Assembly in 1956. The board consisted of four members (in addition to the chairman) elected by the qualified voters of four commissioner districts. Each candidate for membership on the commission had to be a resident of the respective commissioner district for which he sought office. The candidates for office designated the post for which they offered, and the one receiving the largest number of votes for any post was declared elected. No two members of the commission, excluding the chairman, were to reside in the same commissioner district. The board and chairman together constituted the governing authority, and the chairman was entitled to the same voting rights as other commission members on questions considered by the board. The chairman also had broad appointive powers for non-elective county offices, although his appointments were subject to board approval (Ga.L. 1956, p.3237).

In 1976, a dispute arose between the chairman and a majority of the board when the majority wanted to enact two ordinances, pursuant to the Georgia county home rule amendment, which would repeal certain provisions of the 1956 act. According to the Georgia Supreme Court, the "net result of the two proposed ordinances would diminish the power of the Chairman ... and increase the power of a majority of the Board of Commissioners with respect to the employment and discharge of non-merit system employees of the county." The court upheld the position of the board [Guhl v. Williams, 237 Ga. 586, 229 S.E.2d 382 (1976)].

In 1981, the General Assembly revised the act of 1956 to create a Board of Commissioners and office of Chief Executive Officer. This act took effect in 1985 and defines the present DeKalb County government. The Commission consists of seven members--five elected from commissioner districts and two elected at large. The respective powers of the two branches or entities (the board and the CEO) have been the subject of considerable debate and litigation, and in 1985, a controversy reached the Georgia Court of Appeals. In Malloof v. Williams, 175 Ga.App. 546, 334 S.E.2d 16 (1985), the CEO brought suit against the board seeking a declaratory judgment setting forth the respective rights and powers of the two parties in making appointments to the county board of tax assessors and to the board of directors of the Metropolitan Atlanta Rapid Transit Authority (MARTA). Although the trial court ruled that the appointments were to be made by a majority of the seven commissioners and the CEO voting together as a single body, the Court of Appeals reversed, holding that the appointments in question must be made by joint agreement between the CEO on the one hand and the board of commissioners on the other, acting as separate governmental units.

In response to the Malloof v. Williams decision, the Georgia General Assembly passed a local act in 1986, apparently designed to mitigate or alleviate the potentially arduous standard imposed by the Court of Appeals--that of joint agreement between the board and the CEO on certain appointments. The act (Ga.L. 1986, p.4107) proposed several changes to the creating act of 1981. One

provision deleted the portions of the 1981 act whereby the CEO and the board were to exercise "together" the power and authority vested by law in the probate court judge when sitting for county purposes and all powers now or hereafter vested in county governing authorities by the constitution and general laws of Georgia. The new provision substituted language stating that, "except as modified by powers vested in the Chief Executive by other provisions of this Act," the board is vested with the powers of the probate judge when sitting for county purposes, and with the powers of county governing authorities granted by the constitution and general laws of Georgia.

Another provision of the 1986 Act removed the CEO's power to appoint and remove persons filling offices and positions created by state statutes (when not otherwise prescribed by such statutes). The CEO retains the power to fix the compensation for such officers (within budgetary limitations) when the state statutes creating the offices and positions authorize or require compensation to be fixed by county governments or county governing authorities.

A third provision of the 1986 act added a new section to the 1981 act. The section provides that whenever any other state law authorizes or requires a county governing authority, or any local governing body meant by law to include a county governing authority, to appoint or elect a person to fill a post or vacancy in any public office, or as a member of any public authority, board, commission, or other body or agency, such post or vacancy is to be filled through CEO nomination, followed by board confirmation. If the first nominee is rejected by the board, the CEO may make a second nomination. If the second nomination fails, the board itself elects a person to fill the post or vacancy without the necessity of a nomination by the CEO. A process for removing persons from such posts was included in this section. Another provision of the act requires an act of the General Assembly to amend this section. The act was approved by a referendum in 1986.

Part II.

CURRENT DEKALB COUNTY FORM OF GOVERNMENT, COUNTY
BOARDS AND AUTHORITIES, AND MAJOR FINDINGS AND SUGGESTIONS

A. ELECTED COUNTY EXECUTIVE--COUNTY COMMISSION GOVERNMENT,
DEKALB COUNTY, GEORGIA.
(Ga.L. 1981, p.4304 and Amendatory Acts)

TOPIC

GOVERNING
AUTHORITY

Board of commissioners and chief executive officer.

LEGISLATIVE
BRANCH:
COMMISSION
(composition)

Seven members (five district commissioners and two at-large commissioners).

(vacancies)

Vacancies filled by special election unless under 180 days left in term, in which case remaining members of commission fill vacancy by appointment.

(term of
office)

Four year terms.

(election
and duties
of presiding
officer and
deputy
presiding
officer)

Each year the commission must elect from its membership a presiding officer and also a deputy presiding officer who presides in the absence of the presiding officer; the member serving as presiding officer or deputy presiding officer retains all rights, powers, and duties as a member of the commission, including the right to vote on questions considered by the commission; the presiding officer presides at commission meetings in the absence of the CEO and has the following additional duties:

to convene special meetings;

to appoint members and chairmen of (and fill vacancies in) commission committees, subject to rejection by a majority of the total membership of the commission;

to compel attendance of members at commission meetings by subpoena, subject to commission policy; and

to exercise such other powers and duties as may be assigned to him by the commission.

(commission
powers)

The commission has the power and authority to fix and establish policies, rules, and regulations governing all matters reserved to its jurisdiction; it can exercise only those powers necessarily or properly incident to its function as a policy or rule making body or which are necessary to compel enforcement of its resolutions or ordinances.

The following powers are vested in the commission:

(taxes and charges)

to levy taxes;

to make appropriations;

to fix the rates of all other charges;

(indebtedness)

to authorize the incurring of indebtedness;

(improvements and assessments)

to authorize work to be done where the cost is to be assessed against benefited property and to fix the basis for the assessment;

(contracts)

the CEO establishes rules to regulate purchasing for all county departments, offices, and agencies of the county government; formal sealed bids must be obtained on all purchases exceeding \$7500 unless the vendor has an existing contract or schedule with the state or federal government if the purchase is made pursuant to the price, terms, and conditions of the contract and if the county receives all the benefits of the contract; except for contracts of employment, the commission authorizes all contracts involving the expenditure of county funds in excess of \$12,500; the dollar limitations specified above may be increased by ordinance, but no other change can be made in the above provisions by the commission;

(roads)

to establish, alter, or abolish public roads, private ways, bridges and ferries, but the CEO has the authority to accept subdivision plats when the requirements established by the commission for subdivisions have been met;

(precincts and militia districts)

to establish, abolish, or change election precincts and militia districts;

(insolvent lists)

to allow the insolvent lists for the county;

(adoption of optional statutes)

to authorize the acceptance for the county of the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;

(zoning)

to regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality, and general welfare of the county and its citizens, provided, however, that no planning or zoning ordinance can become law unless approved by the member of the commission repre-

	<p>sending the district in which the subject property is located, or by one of the commissioners elected at large;</p>
(tax districts)	<p>to create and change the boundaries of special taxing districts authorized by law;</p>
(officers' bonds)	<p>to fix the bonds of county officers where not fixed by statute;</p>
(prospective authority)	<p>to enact any ordinances or other legislation the county may be given authority to enact;</p>
(capital improvements)	<p>to determine the priority of capital improvements;</p>
(bonds)	<p>to call elections for the voting of bonds;</p>
(residual powers)	<p>except as modified by the powers vested in the CEO, to exercise the power and authority vested by law in the judge of the probate court when sitting for county purposes; except as modified by the powers vested in the CEO, to exercise the powers now or hereafter vested in county governing authorities by the constitution and general laws of Georgia;</p>
(licensing)	<p>to fix, levy, and assess license fees, charges, or taxes on persons and firms engaging in a trade, business, calling, or profession;</p>
(commission rules)	<p>to adopt rules regulating the operation of the commission;</p>
(police powers)	<p>the commission may adopt all such ordinances or regulations as it may deem advisable, not in conflict with the general laws of the state or U.S., for the governing and policing of the county for the purpose of protecting and preserving the health, safety, welfare, and morals of the citizens of the county and for the implementation and enforcement of the powers and duties of the commission; and</p>
(audits)	<p>to choose three commission members to serve as an audit committee to screen and recommend to the commission an independent auditing firm to serve as an outside auditor of the county government to make an annual continuous general audit of all county finances and financial records.</p>

EXECUTIVE
BRANCH:
CHIEF
EXECUTIVE
OFFICER

Elected from the county at large and is to devote full time to the office and have no other employment. Not a member of the commission.

(term of
office)

Four year term (not eligible to serve more than two consecutive full terms).

(vacancy)

Vacancy filled by special election unless under 180 days left in term; if a special election is required, the presiding officer of the commission exercises the powers and duties of the CEO until a successor is elected; if such an election is not required, the presiding officer exercises the powers and duties of the CEO for the unexpired term; in either case, the presiding officer cannot discharge the executive assistant or vote as a member of the commission.

(CEO serving
as presiding
officer)

CEO may, at his discretion, preside at any regular or special meeting of the commission, but has no vote unless members of the commission are equally divided; he can convene special meetings of the commission; he can compel attendance of members at commission meetings by subpoena, subject to commission policy; he must issue calls for agenda items and prepare and publish a list of those items, which is to serve as the agenda for the commission unless superceded by the commission.

(CEO
exclusive
powers)

CEO has exclusive power to supervise, direct, and control the administration of the county government; he must execute and enforce all ordinances, policies, rules, and regulations of the commission.

(commission
member
contact
with de-
partments
and
agencies)

Commission members must deal solely through the CEO or his executive assistant in all matters concerning the operation, supervision, and administration of the various departments, offices, and agencies of the county government; no commission member is to directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the CEO; such limitations are not to prevent commission members from seeking information necessary to establishment of policy from any person, including any county employee.

(departments
and agencies)

Subject to the approval of the commission, the CEO has the power to change, consolidate, or abolish any department, agency, or office which he

supervises and controls (except that the department of finance must be maintained separate and distinct and cannot be abolished by the CEO or the commission); subject to commission approval, the CEO may create other departments, agencies, and offices which are to be under his supervision and control.

(appointment, removal, and compensation of specific officers)

Subject to confirmation by the commission, the CEO appoints the executive assistant, planning director, finance director, merit system director, and county attorney and fixes their compensation within budgetary limitations; neither the commission nor any member thereof can nominate persons for these positions; all these officers serve at the pleasure of the CEO, but may also be discharged for cause by a vote of at least five commission members.

(appointment, removal, and compensation of all county officials and employees)

Subject to budgetary limitations and county merit system regulations, the CEO has exclusive authority to appoint, remove, and fix the compensation of all employees and officials of the county, except employees of the commission and of elective county officers.

(compensation: offices created by state statutes)

The compensation of persons filling offices and positions created by state statutes must be fixed by the CEO, within budgetary limitations, when such statutes authorize or require such compensation to be fixed by county governments or by county governing authorities.

(appointment and removal: offices created by other state statutes)

(1) Whenever any other law of Georgia authorizes or requires a county governing authority (including any such law referring to a local governing body with the intention of including a county governing authority) to appoint or elect a person to fill a post or vacancy in any public office or as a member of any public authority, board, commission, or other body or agency, the post or vacancy must be filled as follows:

(a) CEO must nominate a person by sending a written notice to the commission, and it must specify the post or vacancy to be filled, the date it is to be filled, the qualifications, if any, which must be possessed by a person filling the post or vacancy, and the name of the person nominated;

(b) within 20 days after the notice is received, the commission must confirm or reject the nominee;

(c) if the first nominee of the CEO is rejected by the commission, the CEO is to make a second nomination in writing to the commission within 10 days after the date of the rejection;

(d) within 15 days after the date the second nomination of the CEO is received, the commission must confirm or reject the second nominee; and

(e) if the second nominee of the CEO is rejected by the commission, it is to, within 15 days after the date of the rejection, elect a qualified person to fill the post or vacancy without the necessity of a nomination by the CEO.

(2) When a law described in (1) authorizes a person to be removed from office by a county governing authority, the power of removal may be exercised by the affirmative vote of at least four members of the commission, exclusive of the presiding officer, or by the affirmative vote of three members of the commission and the presiding officer; this power may be exercised by the commission without the concurrence of the CEO, but he may recommend removal to the commission.

(3) Whenever any other law of Georgia authorizes or requires the chairman of the board of commissioners of a county or the elected chief executive officer of a county (by whatever name designated) to hold another office or to serve as a member of any public authority, board, commission, or other body or agency, that law is to be construed to grant such authority or apply such requirement to the CEO.

(4) Whenever any other law of Georgia refers, for purposes other than those described in (3), to the chairman of the board of commissioners of a county or to the elected chief executive officer of a county (by whatever name designated), that law is to be construed to refer to the CEO.

(executive
assistant)

(duties)

Subject to specific qualifications (see below), the CEO is to nominate and the commission to confirm the executive assistant who is the chief administrative aide to the CEO and the commission and be responsible to the CEO and commission for the proper administration of county affairs; when directed to do so by the CEO, the executive assistant may

exercise any of the administrative duties and powers vested in the CEO by law or by ordinances, rules, and regulations adopted by the commission; the CEO has exclusive power to appoint, remove, and, within budgetary limitations, fix the compensation of two administrators to assist the executive assistant in such a manner as the CEO directs.

(executive assistant: qualifications)

The executive assistant must hold a college degree in public administration, political science, urban affairs, business administration, engineering, or a related field and must have at least five years of experience in a supervisory capacity as an employee, director, administrator, or manager of a city or county government or a state or federal agency, or equivalent experience in the private sector or any combination thereof; no person is to be appointed or hold office as executive assistant who, within two years immediately preceding appointment, has been a candidate for elective public office, been the holder of elective public office, or held a management position in the political campaign of any candidate for the office of chief executive, or any member of the commission; after appointment, the executive assistant must not take part in the management of any political campaign for any elective public office or hold office in any political party or body.

(investigations)

The CEO has power to investigate the various authorities, boards, councils, commissions, committees, and similar bodies or agencies whether created by the commission or General Assembly, relating to the affairs of the county and report thereon to the commission.

(intergovernmental representative)

The CEO is to represent the county in intergovernmental matters.

(budget)

Each year, the CEO must submit to the commission a proposed budget governing the expenditure of all county funds for the following calendar year; the commission may adopt the budget as presented by the CEO or amend it as the commission deems necessary to maintain the county in a sound financial condition.

(finance report)

The CEO must prepare and submit to the commission a complete annual report on county financial affairs at the close of each fiscal year.

(veto)

The CEO may approve or veto any ordinance or resolution within eight business days after its adoption.

tion by the commission (otherwise it becomes effective without any action on his part); the commission can override the CEO's veto by a two-thirds vote of its total membership; the CEO may veto any item or items of any ordinance or resolution making appropriations; the CEO may not veto any zoning ordinance the commission adopts or any rule adopted by the commission regulating its operation.

B. CHIEF EXECUTIVE OFFICER AND COMMISSION:
POWERS OF APPOINTMENT TO BOARDS, AUTHORITIES, COUNCILS,
COMMISSIONS, AND ADVISORY COMMITTEES

BOARD,
AUTHORITY,
COMMISSION, OR
OTHER BODY

MEMBERS

APPOINTED BY

Airport Advisory
Committee

13

Comprised of seven representa-
tives of the community and six
representatives of the airport
interests; it was requested that
the concerned citizens group
presently meeting regarding
airport matters serve on the
committee, with the understanding
that only one person from the
Cantrell family and from the
Rutledge family be a member of
the committee (Minutes Book 242,
p.012; 6-8-82).

Airport Authority

9

Each member of the board of com-
missioners makes one appointment;
the CEO makes one appointment;
and a majority of the board with
the concurrence of the CEO makes
one appointment; the term of each
member runs concurrently with
the term of office of the person
making the appointment, except
that the member appointed by
majority vote of the board with
CEO concurrence serves for a term
of four years; vacancies are
filled by the official or entity
entitled to make the respective
original appointment (Ga.L. 1986,
p.5678).

Animal Control
Advisory Board

13

Each member of the board of com-
missioners makes one appointment;
the CEO makes one appointment;
the board of commissioners as a
whole makes one appointment from
persons nominated by any member
of the commission or the CEO; the
DeKalb Humane Society makes one
nomination for appointment to be
confirmed by a majority vote of
the commission; the DeKalb Veter-
inarians Association makes one
nomination for appointment to be
confirmed by the majority vote of
the board of commissioners; the
public safety director or his

designee serves as a member; and the director of public health or his designee serves as a member; the term of each member appointed by an individual commissioner or the CEO runs concurrently with the term of office of the person who made the appointment; the terms of all other appointed members is four years [DeKalb County Code Sec.4-4012 (Ord. No.85-4, 1-22-85, Secs.1-3)].

Atlanta
Regional
Commission

(not fixed)

Members consist of the chairman of the board of commissioners of each county within the area; the mayor of the most populous municipality within the area; from each county within the area, except the most populous county, the mayor of a municipality within the county, to be designated by majority vote of the mayors (except the mayor of the most populous municipality within the area) of all municipalities lying within the county; from the most populous county within the area, the mayor of a municipality located within the northern half of such county elected by majority vote of the mayors of all municipalities located within the northern half of such county or the mayor of a municipality located within the southern half of such county elected by a majority vote of the mayors of all municipalities located within the southern half of such county; a member of the legislative body of the most populous municipality lying within the area chosen by majority vote of the members of that legislative body; and that number of persons, not holding elective or appointed public office or employed by any of the political subdivisions of the area, which must be one less than the total number of public members designated above, who are to be elected as members at large after the General Assembly

members whose representative or senatorial districts lie wholly or partially within the area divide the area into the same number of equally populated districts as the number of commission members at large to be elected, after which the previously described and selected public members of the commission will elect one resident of each district as a member of the commission; the public members of a commission have terms of office concurrent with their respective terms of public office; members at large serve for a term of four years, provided, however, that terms of all members at large terminate at the end of any calendar year during which redistricting of the area has occurred; the commission must remove any member at large who moves out of his district and may remove any member at large who fails to attend three or more consecutive meetings; vacancies are filled in the same manner as original elections to the commission (O.C.G.A. Sec.50-8-84; 50-8-85).

Board(s) of
Equalization

3 members and
3 alternates

Selected by the grand jury from the current grand jury list; in counties with not less than 400,000 nor more than 550,000 population, the governing authority may elect to have selected one additional board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000; members and alternates serve two year terms; vacancies are filled by alternates and the grand jury selects persons to replace the alternates (O.C.G.A. Sec. 48-5-311).

Board Of Health

7

The CEO of the county governing authority, the county superintendent of schools, and the CEO of

the largest municipality* in the county constitute three permanent members; the county governing authority appoints three more members for six year terms and the governing authority of the largest municipality in the county appoints the final member for a six year term; vacancies in the appointed positions are filled in the same manner as the original appointment. (* When the legal situs of the largest municipality lies within an adjoining county, the county governing authority may provide for selection by it of the CEO of the governing authority of any municipality lying wholly or partially within the county to fill this position.) (O.C.G.A. Sec. 31-3-2).

Board of Registrations 5
and Elections

Two members are appointed by the chairman of the county executive committee of the political party whose candidates at the last preceding regular election, held for the election of all members of the General Assembly, received the largest number of votes in Georgia for members of the General Assembly, and two members are appointed by the chairman of the county executive committee of the political party whose candidates at such election received the next largest number of such votes; the fifth member is appointed by the other members; the term of office is two years; members can be removed by the superior court judge after notice and a hearing; in the event appointments are not made or vacancies filled within 90 days, appointment is to be made by the county governing authority, except with respect to the fifth member appointed by the other members (Ga.L. 1978, p.3677).

Board of Tax
Assessors

3-5

Appointed by the county governing authority to terms of six years

and until a successor is duly appointed and qualified; certain relatives of members of the county governing authority are ineligible as provided by statute; members of the board of tax assessors can be removed by the governing authority only for cause; assessors must possess certain qualifications and successfully pass an examination or have completed certain courses administered by the state revenue commissioner; vacancies are filled in the same manner as the original appointments (O.C.G.A. Sec. 48-5-290; 48-5-291; 48-5-295; 48-5-296).

Board of Zoning
Appeals

9.

Appointed by the governing authority as follows: each member of the board of commissioners makes one appointment; the CEO makes one appointment; and one appointment is made by majority vote of the board with the concurrence of the CEO; the term of each member runs concurrently with the term of office of the person making the appointment, except that the member appointed by majority vote of the board with CEO concurrence serves for a term of four years; vacancies are filled for the unexpired term in the same manner as the initial appointment; the appointing governing authority has the power to remove any member for cause, stated in writing, after a public hearing (Ga.L. 1984, p.5293; 1986, p.5672).

Bond Commission

13

Membership includes the chairman of the board of commissioners who serves as an ex officio member as long as he remains in office as chairman, and 12 other members appointed by the grand jury to terms of four years; except for the ex officio position, vacancies are filled by the remaining members of the bond commission. (Note: The powers of the commis-

sion terminate when all monies from the sale of general bond issues voted prior to 1962 have been expended.) (Ga.L. 1962, p. 2377).

Cable Television
Advisory Board

9

The county board of education appoints one member for a term not to exceed four years; each member of the board of commissioners and the CEO appoints one member, and the terms of appointment for such members corresponds to the term of office of the appointing commissioner or CEO [DeKalb County Code Sec. 7-6143 (Ord.Nos.80-15, 6-24-80; 85-1, Secs.1,2, 1-8-85; 85-24, 8-27-85)].

Coliseum Authority

5

Positions are filled by a majority vote of the governing authority, and vacancies are filled in the same manner; the term of office is five years (Ga.L. 1969, p.2568).

Community Development
Advisory Board

(located no board by this name in minutes or ordinances).

Community Relations
Commission

21

Selected by the CEO with the advice and consent of the board of commissioners; the term of office is three years (Ga.L. 1986, p.5685).

Department of Family
and Children Services
Board

5

Appointed by the commissioner of the state department of human resources on the recommendation and nomination of the county board of commissioners; the term of office is five years; vacancies are filled in the same manner as the original appointments (O.C.G.A. Sec. 49-3-2).

Development Authority

7

Directors are appointed by the county governing body to six year terms (O.C.G.A. Sec.36-62-4);

governing body means the elected or duly appointed officials constituting the governing body of the county (O.C.G.A. Sec.36-62-2).

Developmental
Disabilities
Planning and
Coordinating
Council

(deter-
mined
by the
board of
commis-
sioners)

Consists of such members as are appointed by the board of commissioners from candidates recommended by representatives of the interests comprising the membership areas; the members representing elected or appointed officials must include at least one representative from the board of commissioners, one from the DeKalb board of education, and one from the Decatur board of education; other members are the county district health director and the county mental health and retardation services director (Ga.L. 1976, p.2826).

Economic Opportunity 7
Authority

Each commissioner appoints one member; the appointed representative's term runs concurrently with the appointing commissioner's term of office (Minutes from meeting of 4-18-65).

Electrical Advisory/ 5
Examining Board

The board is composed of one Georgia registered electrical engineer, two master electricians, and two practicing electricians who must be shop owners located within the county; the board is appointed by the board of commissioners; term of office is four years; vacancies are filled for the unexpired term in the manner in which the original appointments are made [DeKalb County Code Sec.9-2010 (Ord.No. 84-27, 12-21-84)].

Fulton-DeKalb
Hospital Authority
(Brady)

(not
speci-
fied)

Powers of appointment, etc., lie with the governing body of the county, which is authorized to contract with the City of Atlanta, Fulton County or with a hospital authority (Ga.L. 1943,

p.18, continued in Ga.L. 1986,
p.4783).

Government Study
Commission

9

Two members are appointed by the CEO; one member is selected by the board of commissioners from its membership; three members are members of the state senate whose districts lie within the county, appointed by the president of the Senate; three members are members of the house of representatives whose representative districts lie within the county, appointed by the speaker of the house. (Note: This commission stands abolished on December 31, 1986.) (Ga.L. 1986, p.5650).

Heating, Venting, and
Air-Conditioning
Advisory/Examining
Board

5

Composed of at least two DeKalb licensed heating, venting, and air-conditioning (HVAC) Contractors and owners of HVAC businesses; all members must be employed or trained in a HVAC-related field and must reside in the county; the HVAC board is appointed by the board of commissioners to terms of four years; vacancies are filled for the unexpired term in the manner in which the original appointments are required to be made [DeKalb County Code Sec.9-4002 (from an ordinance adopted 8-23-77)].

Hospital Authority
(DeKalb General)

5-9

All members are appointed by the county governing body for terms specified by that body; vacancies are filled by the governing authority (O.C.G.A. Sec.31-7-72 and Ga.L. 1969, p.3611); governing body means the elected or duly appointed officials constituting the governing body of the county (O.C.G.A. Sec.31-7-71).

Hospital
Authority
(DeKalb Private)

(located no authority by this
name in minutes or ordinances)

Housing Authority

5

Commissioners are appointed by the county governing body to terms of five years; the governing body may remove a commissioner for inefficiency, neglect of duty, or misconduct in office after a hearing (O.C.G.A. Secs. 8-3-50; 8-3-53); governing body means the judge of the probate court, the county commissioners, or other legislative body of the county (O.C.G.A. Sec. 8-3-3).

Land Use Study
Commission

15

Appointed by the General Assembly (Ga.L. 1986, p.5530).

Landfill Advisory
Committee

(located no committee by this name in minutes or ordinances other than seven member Seminole Landfill Advisory Committee described in Minutes Book 178, p.112; 11-8-77).

Library Board of
Trustees

(not fixed)

The board of library trustees consists of at least one member appointed, as specified in the constitution and bylaws of the library, from each governmental agency supporting the library; the term of office is specified in the constitution and bylaws of the library; vacancies are filled in the same manner as the appointments; board members are to be removed for cause or for failure to attend three consecutive meetings (O.C.G.A. Sec. 20-5-42).

Merit System
Council

5

Chairman and other members are appointed by the governing authority to five year terms; members can be removed for cause after notice and a hearing (Ga.L. 1978, p.4691 and Ga.L. 1982, p.5123).

MARTA Board of
Directors

17

The governing body of DeKalb County appoints five members; the Mayor of Atlanta and Atlanta City Council appoint four members; the governing body of Fulton County

appoints three members; the governing body of Clayton County appoints one member; the governing body of Gwinnett County appoints one member; ex officio members are the commissioner of the department of transportation, the state revenue commissioner, and the executive director of the state properties commission; the term of office for appointed members is four years; vacancies are filled in the same manner as the respective governing bodies make other appointments to the board (Ga.L. 1985, p.3609).

Oglethorpe
Housing Development
Authority

8

Seven members of the board of directors are appointed by the chairman of the board of commissioners with the advice and consent of the board of commissioners; the chairman of the board of commissioners or his designee serves as an ex officio nonvoting member of the board of directors; vacancies are filled by the chairman for the unexpired term (Ga.L.1974, p.2591; 1975, p.3053).

Pension Board

7

One member is the chairman of the board of commissioners; one member is elected by the board of commissioners for a term of four years; one is the director of finance; one member is the director of the merit system; two members are officers, employees, or deputies of the county who contribute to the pension fund, elected to four year terms by the officers, employees, and deputies of the county covered by the fund; the seventh member, who cannot be employed by a state, county, or municipal government, is appointed by the pension board, but, in case of a tie, the board of commissioners appoints the seventh member; vacancies in positions of members elected by persons covered by the fund are

filled by the pension board; other vacancies are filled in the same manner as the original appointments (Ga.L. 1962, p.3088).

Planning Commission

9

Appointed by the governing authority as follows: each member of the board of commissioners makes one appointment; the CEO makes one appointment; and one appointment is made by majority vote of the board with the concurrence of the CEO; the term of office is four years; vacancies are filled in the same manner as the original appointments; the governing authority can remove a member for cause, stated in writing, after a public hearing (Ga.L. 1956, p.3332; 1964, p.2876; 1986, p.5672).

Plumbing Advisory/
Examining Board

5

Composed of at least two DeKalb licensed contracting plumbers and/or owners of plumbing businesses; all members are to be employed or trained in a plumbing related field and must reside in the county; appointed by the board of commissioners; term of office is four years; vacancies are filled for the unexpired term in the manner in which original appointments are required to be made (DeKalb County Code Sec.9-3002).

Private Industry
Council Board of
Directors

(located no board by this name in minutes or ordinances)

Recorder's Court

The board of commissioners selects a chief judge and a sufficient number of associate judges as may be necessary; the term of office is two years; vacancies are filled in a like manner; the board of commissioners elects the clerk and a sufficient number of deputy clerks as may be needed to serve at the pleasure of the board of commissioners (Ga.L.

1959, p.3093; 1964, p.2545; 1968, p.3666; 1982, p.4599).

Recreation, Parks,
and Cultural Affairs
Advisory Board

9

Seven members are recommended by individual members of the board of commissioners; one is recommended by the DeKalb Municipal Association and one is recommended by the DeKalb Board of Education; all are confirmed by the board of commissioners; term of office corresponds to that of the recommending commissioner; the two appointed respectively by the Board of Education and the Municipal Association have a term of four years (Minutes Book 140, p.205; 3-12-74).

Residential Care
Facilities for the
Elderly Authority

7

(Minutes Book 254, p.009; 4-26-83 indicates only the number of members)

Small/Minority
Business Advisory
Council

(located no appointment procedures for this council in minutes or ordinances)

Solid Waste
Disposal
Authority

7

Appointed by the board of commissioners; two members of the authority must be members of the board of commissioners elected from commissioner districts, one member must be a member of the board of commissioners elected at large, and four members must be county residents who are not county officers or employees; the term of office is four years, except that board of commissioner members cease being members of the authority if they are no longer members of the board of commissioners; vacancies are filled for any unexpired term by the board of commissioners (Ga.L. 1976, p.1798).

Solid Waste
Management
Study Committee

7

Appointed by the board of commissioners; each commissioner is allocated one appointment;

each member serves at the pleasure of the commissioner who appointed him, and the term of office is concurrent with that commissioner's term of office (Minutes Book 184, p.215; 4-11-78).

C. MAJOR FINDINGS AND SUGGESTIONS CONCERNING THE
LAWS GOVERNING THE CHIEF EXECUTIVE OFFICER
AND THE BOARD OF COMMISSIONERS OF DEKALB COUNTY

The legal staff of the Carl Vinson Institute of Government has carefully reviewed and analyzed the laws establishing and governing the office of the Chief Executive Officer (CEO) and the Board of Commissioners (board or commission) of DeKalb County. The conclusion is that no major impairments to the functioning of the CEO and board were found in the law. Instead, whatever problems may exist with respect to the functioning of the CEO and the board arise primarily from the hybrid form of government under which DeKalb County operates. DeKalb has neither a true county executive form nor board of commissioners form of government, but a combination of elements from both. This is apparent from a review of the former type of government in DeKalb County (see Appendix C) and an examination of the county executive forms of government in other states summarized in this report (see Part IV).

Because the Institute found no major impairments in the laws pertaining to the CEO and board, no specific technical legal changes are recommended. However, there are a number of places in these laws where it appears issues may arise over the authority of the CEO and board when exercising their respective powers. These possibly troublesome areas, together with general suggestions concerning clarification or alteration of pertinent language, are identified and briefly discussed in the findings below:

Finding One:

The 1986 amendment to the 1981 act creating the current county executive form of government considerably eliminates the legal problem concerning the appointment of persons to offices and positions created by state statute that resulted in the court decision of Maloof v. Williams. The 1986 language states that

whenever any other law of this state authorizes or requires a county governing authority, including any such law which refers to a local governing body with the intention of including a county governing authority, to appoint or elect a person to fill a post or vacancy in any public office or as a member of any public authority, board, commission, or other body or agency, such post or vacancy shall be filled

by a process whereby the CEO nominates a person and the board confirms or rejects the appointee. After two rejections, the board must elect a person to the position. If such other law authorizes a county governing authority to remove a person from such a post, four members of the board, exclusive of the presiding officer, or three members and the presiding officer, can do so without the concurrence of the CEO, but he can recommend removal.

The 1986 language, however, may not address all the possible methods in other laws for appointing persons to such posts or vacancies, or for removing them from office. Moreover, if the "other law" is a general one, the procedure in the 1986 act would not prevail over the procedure in the general law, because local acts conflicting with general laws are generally held unconstitutional.

Examples of potential questions over who has the authority to make appointments can be seen by looking in Part II., B. of this report with respect to the:

1. developmental disabilities planning and coordinating council;
2. electrical advisory/examining board;
3. heating, venting, and air conditioning advisory/examining board;
4. housing authority;
5. Oglethorpe housing development authority;
6. pension board;
7. plumbing advisory/examining board;
8. recorder's court;
9. recreation, parks, and cultural affairs advisory board; and
10. solid waste disposal authority.

The law or ordinance pertaining to each of these bodies states that the "board of commissioners" is to make the appointments. The seven-member board of commissioners is, of course, specifically defined in the 1981 act, and that act states that the CEO shall not be a member of the board of commissioners.

Suggestion:

Language more precise and inclusive than that quoted above would reduce, if not remove, further legal questions as to who has the authority to appoint persons to these posts or vacancies or to remove them from office, and would avoid possible conflicts with other laws.

Finding Two:

The 1986 amendment to the 1981 act considerably eliminates a legal issue that arose in the Maloolf v. Williams case as to what

was meant by language that vested in the board the power to "exercise together with the Chief Executive Officer" all powers of the probate judge, when sitting for county purposes, and to "exercise together with the Chief Executive Officer" all powers granted to county governing authorities by the constitution and general laws of Georgia.

However, the 1986 language stating that, "except as modified by the powers vested in the Chief Executive by other provisions of this Act,"

the board is vested with the powers of the probate judge, when sitting for county purposes, and with the powers of county governing authorities granted by the constitution and general laws of Georgia,

may raise further legal questions in areas not involving the appointment of persons to posts or vacancies authorized by any other law.

For example, if a general law (which generally would prevail over a conflicting local act) authorized the "board of commissioners" to establish some entity or program, there could be an issue as to whether the CEO had the legal authority to take part in the action. Also, what "act" is being referred to in the exception is not clear, for it might be interpreted as being literally the 1986 act or the 1981 act as subsequently amended.

Suggestion:

Language more inclusive and precise than, "except as modified by the powers vested in the Chief Executive" would reduce, if not eliminate legal questions as to who has the authority to establish an entity or program, avoid conflicts with other laws, and make clear what "act" is being referred to in the exception.

Finding Three:

A provision of the 1981 act, amended in 1983, states that "subject to confirmation by the Commission, the Chief Executive shall appoint the executive assistant, the planning director, finance director, merit system director, and the county attorney." Still another provision, amended in 1983, states that the "Chief Executive shall nominate, and the Commission shall confirm, an Executive Assistant." However, the 1986 amendment to the 1981 law reenacted language stating that subject to budgetary limitations and merit system regulations, "the Chief Executive shall have exclusive authority to appoint, remove, and fix the compensation of all employees and officials of the county, except employees of the Commission" and employees of elected county officers.

Excluding the conflict regarding the method of appointing the executive assistant, a future CEO might try to argue that the 1986 amendment was the last expression of the General Assembly and thus commission confirmation is no longer necessary for these appointments.

Suggestion:

The three provisions quoted above should be closely examined and clarified so as to prevent questions arising over whether the 1986 amendment possibly repealed the board confirmation requirement.

Finding Four:

The 1986 amendment to the 1981 act states that the compensation of persons filling offices and positions created by state statutes is to be fixed by the CEO, within budgetary limitations, "when such state statutes authorize or require such compensation to be fixed by county governments or by county governing authorities." This 1986 language may raise questions if particularly a general state statute authorizes county governments or county governing authorities to fix the compensation, for local acts conflicting with general laws are generally held unconstitutional.

Suggestion:

More precise language addressing this subject might avoid the possibility of a conflict between this act and another law.

Finding Five:

The 1981 act states that, "subject to the approval of the Commission," the CEO has the power to change, consolidate, or abolish departments, agencies, or offices which he supervises and controls, except the finance department, and create other departments, agencies, and offices which will be under his supervision and control. "Subject to the approval of the Commission," may raise issues as to the extent of the commission's authority over departmental changes and whether approval is to be given before or after such changes.

Suggestion:

Language more precisely defining the authority of the commission might eliminate possible questions on this subject.

Finding Six:

The 1981 act states that the board is to elect from its membership a presiding officer to preside at meetings in the absence of the CEO. Among the additional duties granted to the presiding officer is the power to appoint, subject to commission rejection, the members and chairmen of commission committees. The act is silent as to whether this power is exercised exclusively by the presiding officer elected by the board or by the CEO when serving as presiding officer. This might lead to a contest as to who possesses this power. In addition, the act states that the CEO, when presiding, cannot vote except to break a tie, but in another place the act states that the presiding officer has the same voting rights as other commission members.

Suggestion:

Language clarifying these provisions would eliminate possible questions concerning the exercise of these powers.

Finding Seven:

The 1981 act, as amended in 1983, authorizes members of the board to seek "information necessary to the establishment of policy from any person, including any employee of DeKalb County." "Establishment of policy" may be too vague to avoid questions as to what is or is not policy.

Suggestion:

Language expanding and clarifying this provision would tend to reduce possible debates on this matter.

Finding Eight:

The 1981 act, as amended in 1983, states that the executive assistant is to be the chief administrative aide to the CEO and the board and is responsible to them for the proper administration of county affairs. The act also states that, when directed to do so by the CEO, the executive assistant may exercise any of the administrative duties and powers vested in the CEO. However, this law does not provide additional guidance as to what the executive assistant's responsibilities are to the commission.

Suggestion:

Language defining more precisely the executive assistant's responsibilities to the board might eliminate possible issues concerning this subject.

Finding Nine:

The 1981 act states that the CEO is to "issue calls for agenda items and shall prepare and publish a listing of those items and the same shall serve as the agenda for the Commission unless superceded by the Commission." This provision might raise questions as to how the agenda is or can be developed.

Suggestion:

Language spelling out more precisely the agenda-building process would reduce, if not eliminate, issues over how, what, or when items may be included in the agenda.

Finding Ten:

The 1981 act, as amended in 1986, provides that the "Commission shall review the proposed budget" and that "it may adopt the budget as presented by the Chief Executive or it may make such amendments thereto as it deems necessary to maintain the County in a sound financial condition." "To maintain the County in a sound financial condition" could raise issues as to the extent of the commission's power to alter the proposed budget.

Suggestion:

Language more precisely defining the authority of the commission in fashioning the proposed budget could reduce questions on this matter.

These findings bring to light not only ten potential legal problem areas, but other things as well. They reveal the complexity of the various laws pertaining to the office of CEO and the board, and the care that must be exercised when these acts are amended. Therefore, future alterations should be made only after careful research and analysis are conducted to determine what impact proposed changes will have on these laws so that the proposed amendments can be drafted in such a way as to reduce or eliminate future questions or conflicts that impair the proper functioning of the CEO and board, or may even require court interpretation.

Part III.

MAJOR PROBLEMS AND SUGGESTIONS BROUGHT OUT IN CONFIDENTIAL
INTERVIEWS OF THE CEO, THE BOARD MEMBERS, AND
THE EXECUTIVE ASSISTANT

Introduction

To obtain another perspective on the interaction between the CEO and the Board, Carl Vinson Institute staff conducted confidential interviews with the CEO, all members of the Board of Commissioners, and the Executive Assistant. These interviews were conducted between July 23 and August 8, 1986. The stated purpose of these interviews was to learn what the nine persons interviewed saw as legal obstacles to the smooth functioning or interaction of the CEO and Board. However, all the interviews were broadened in scope to include, and for the most part focused on, 1) historical and political factors and current CEO-Board procedures that the persons interviewed saw to be important to a full understanding of the present relationship between the CEO and Board and 2) interviewees' suggestions for improvement in that relationship.

This section of the report summarizes the confidential interview material. It is divided into subsections that focus on the major issues that emerged in the interviews. Some material is set off in quotation marks to convey the feeling and intent of the persons interviewed as well as the content of their remarks. However, this quoted material is not the exact phraseology used by the interviewees, but has been edited for space and to maintain confidentiality.

Form of Government

Although a consensus of the nine persons interviewed indicated that the current officeholders could make the reorganized form of government work, they generally preferred DeKalb County's pre-1985 form of government. The CEO, five of the seven current Commissioners, and the Executive Assistant served in essentially the same capacities in the old form of government and established a working relationship under that form. Five of these persons who served in both forms of government said that they had not supported reorganization or preferred to go back to the old form. In all, seven interviewees voiced some criticism of reorganization or a preference for the old form:

"The way government was before was better. The 1976 version, with new ordinances, worked beautifully."

"I didn't support reorganization; the old form was efficient and economical."

"Things ran better under the old form, and if I had a preference I would go back to it."

"The old form worked very well. It is hard to separate personalities involved who are used to working under the old form and still work the same way."

"Reorganization was trying to fix something that wasn't broke."

"I would love going back to the way it was before reorganization."

"We need a structure that is clearly defined and easily understood by those working in it. Now there are too many gray areas. It is an impediment to operations."

A majority of the commissioners who criticized the CEO-Board relationship that emerged from reorganization took pain to distinguish between their views on the performance of the current CEO and the potential functioning of future occupants of the office:

"He is making the thing we've got work. He has gone the extra mile to make it work."

"He does a very effective job of running the county."

"The way the reorganization act was written, a bad CEO--an immoral person--could really take over and hide his or her actions."

Power

While most of the nine principals interviewed mentioned that the specific issue of appointment led to the current study, it became clear from their discussions that appointment was only part of a larger issue, the distribution of power *per se* between the CEO and Board. This larger issue was traced in several interviews back through the reorganization act to Guhl v. Williams. Specific sources of power under the reorganized form of government that were mentioned by one or more interviewees were the power to: appoint, preside over Board meetings, control and supervise staff (information sources), and set the agenda and budget. Among the nine principals interviewed, there was no consensus regarding what are the problems in exercising power nor what should be the power distribution between the CEO and Board. But, all principals alluded to some problem in the separation and distribution of powers that emerged from reorganization:

"I don't think the reorganization act intended to give the CEO all that power. Rather, there should be checks and balances."

"The CEO has the edge over the Board because his people prepare recommendations for agenda items. The Board has little time to ask questions about agenda items."

"We need a day to day administrator with enough power to administer, but the Board should have enough power regarding policy."

"There is too much power given to the five district seats on the Board."

"The Board is at a disadvantage regarding the budget, which controls all things. Budget is now vested in the CEO and he can hire, fire, and spend; and all staff are hand picked by the CEO."

"The Board has no wherewithal to question the CEO regarding matters of policy."

Appointment

Appointment power is the main subject of dispute between the CEO and the Board. All principals interviewed discussed this subject and agreed that the dispute centers on the power to appoint citizens to policy boards and not on the power to appoint prospective employees to staff positions within the DeKalb County government. Said one commissioner:

"It is OK for the CEO to nominate and the Commission to confirm people he deals with as administrator, but citizen boards, for example MARTA, are policy boards."

Several commissioners pointed out that appointments to policy boards were politically important to the commissioners:

"Appointments to boards are critical political appointments; district appointments are political appointments, courtesy stuff."

"Before, each commissioner got to make a nomination. There is a certain patronage involved."

"These boards are set up for commissioners to make these appointments. I think commissioners should have that power."

"I feel district commissioners are in touch with the people so they know who would be good to have on appointed boards."

However, such appointments to policy boards were also seen as important to the county executive:

"Appointments to boards, such as the merit council and the tax assessor board, are crucial to the administration."

The 1986 legislation (approved by the voters after the interviews were conducted) that aimed to clarify the appointment procedure was also discussed in the interviews. Two commissioners suggested that the legislation resulted from executive branch lobbying. There was no consensus among the persons interviewed as to the effect the 1986 legislation would have on the relationship between the CEO and Board:

"If the proposal goes through, it would clear up appointments."

"If the proposal passes, it will not clear up the problem; it will only create tension as it puts the Board in a reactionary position. We could be negative to his nominee and still sit deadlocked and be put under pressure to agree with his nominee."

"The CEO will make all the nominations for all the boards even in things in which he is not involved. Patronage is eliminated as the Board can only vote to confirm."

"If the proposal passes, it would clear up the appointment problem because we would go back to the way we operated before."

"I will vote for the amendment; the CEO will be pushed to recommend a person who would be acceptable to the Board under the proposal."

"If the proposal doesn't pass, we'll be in a morass."

"The '86 bill is a compromise. It could be misused by just waiting out sixty days whoever is nominated. It is a bad law, but the best we could get."

"If we're going to give the CEO more power to nominate, then the CEO should not preside over the legislative branch. There should have been a give and take situation. In sum, the CEO gains more power."

Power to Preside

The DeKalb County reorganization plan aimed to separate executive and legislative functions that were joined in the old form of government. However, the reorganization act as passed provided that the CEO could choose to preside over meetings of the Board of Commissioners. This provision gave the CEO a legislative function akin to that of the chairman under the old form of government.

Four of the commissioners interviewed criticized outright this provision. They pointed out that it violates the principle of separation of powers and precludes having a real system of checks and balances between the executive and legislative branches. Moreover, there is a sense among these four commissioners that, given the CEO's other powers under reorganization--to veto, to set the agenda and budget, and to control staff resources--the office of CEO has, through the provision to preside, gained inordinate influence in legislative matters at the expense of the Commission. Two commissioners found no fault with the provision. One commissioner saw no current problem, but saw problems ahead. In sum, the provision for the CEO to preside over Board meetings elicits a split in opinion not unlike the split among the Government Reorganization Commission of 1979:

"Board meetings would function better if the CEO were not presiding over meetings. If he wants to preside, he shouldn't have a veto."

"I have no problem with the CEO presiding. If he didn't, we'd have to spend more time in conference with him to get information needed for policy decisions that he has to implement on a day to day basis."

"Because the CEO sets the agenda and chairs the meetings, his thinking influences the Board members and there is no separation of powers."

"The CEO maybe thinks he has more control if he is presiding. Most of the time he makes good decisions."

"The CEO should not chair Commission meetings; in Atlanta the Mayor can't speak before the Council without being invited."

"I don't have problems with the CEO presiding in light of the current personalities involved and the philosophy of the CEO, but if it were another person, it could be a problem."

"There is a fallacy in having an executive preside over the legislative; there should be two separate bodies."

Staff

To make the county's chief executive accountable as well as responsible for administrative activities, reorganization placed county staff wholly under the control and supervision of the CEO. Staff were thus removed from the joint control and supervision of the chairman and other commissioners that existed under the old form of government.

Five of the commissioners expressed the need for the commission to have its own staff to generate information for policymaking. They pointed out that under the old form of government, commissioners had direct access to department heads for information, but that under reorganization, the commission was left without that access. Generally, the five commissioners had two types of concerns: first, that the administrative staff's first loyalty was to the CEO and that they didn't have time for commissioners' projects and, secondly, that the commission is placed at a disadvantage compared to the executive branch regarding budget and other legislative matters when information comes to it only from one source, the executive. In sum, the feeling was that the commission had no means to raise questions regarding matters of policy and, that if the reorganized form of government remained in place, with staff removed from the Board control to control by the executive, the Board would need to have its own staff:

"The Board needs staff, researchers, because the administrative staff's first loyalty is to the CEO and their work piles up and they don't have time for a Board member's technical or complicated projects. I don't mean we have to have independent facts versus the CEO's facts."

"The Board doesn't have any staff, and checks and balances don't work if information comes only from the executive."

"If you want to have separation of branches, the Board needs to have information resources under the commissioners. Without staff, we can't develop policy as we should."

"Under the reorganization act, the Board was not to have access to department heads, so the Board would need its own staff. But when the act was amended, the Board had freedom of access to department heads. And, this is working well. It is an example of going back to the old system, inching back."

"The commission needs staff. In the past, there was joint use of staff, but now staff technically works for the CEO, not for us. It may mean we don't get all the information; the staff doesn't feel free to do something without clearing it with the CEO."

Summary and Suggestions made by Interviewees

In sum, what do these interviews say? First, there is a very generalized feeling that the current form of government is not the best for DeKalb County. At the same time, there is no strong feeling that anything in particular should be done about it. Three of the persons interviewed suggested going back to the old form of government, a seven-member Board of Commissioners with the Chairman a voting member. One suggested looking at the county manager form of government. Another advocated the mayor-council form "like the City of Atlanta has."

Second, there is a feeling, again generalized, that the present interaction between the CEO and Board--for good or bad--is in part the result of most of the principals involved having worked together under the old form of government. Two commissioners indicated that the present government worked as well as it did because the current CEO is functioning more or less like he did as chairman under the old form, that is, setting the agenda and chairing the Board meetings. The three amendments to the reorganization act were seen as gradually moving back to the old form of government, a form that at least a majority of interviewees suggested they preferred over the current form. One person saw the recent problems between the CEO and Board regarding appointments and Board relations with department heads as stemming from the fact that a majority of the Board were used to the different operating procedures of the old form of government. The fact that the present CEO and a majority of the Board have worked together successfully is also reflected in the

general observation that, although there has been no real donnybrook among the present officeholders, nor mismanagement in the administration, the legal structure of the present form of government could lead to problems. Three potential problems raised were: the CEO running over the Board with his broad powers; the CEO being intimidated by the Board because he has no vote and the five district commissioners could control things; and the CEO possibly mismanaging the government because the position is elective and therefore no professional qualifications can be imposed on the office.

Third, the principals interviewed hold a diversity of suggestions for change within the present form of government. Among specific suggestions, the most popular was for some kind of staff support for the Board, controlled and supervised by the Board. This staff, it was suggested, would provide needed information for policymaking and, according to two commissioners, might also be used for making General Assembly contacts and for constituent services. Relatedly, one commissioner expressed the need for stronger lines of communication between the Board and county department heads. Another suggested that the Executive Assistant position be filled by a professional administrator who stayed in the position from one administrator to another.

For several Board members, the issue of appointments to citizen-member policy boards apparently will remain unresolved by the 1986 legislation. As the above appointment section reveals, there is no consensus on this subject. One commissioner suggested going back to the legislature to change the law regarding appointments to what it was under the old form of government. In general, however, suggestions for change in the appointment power were made in the context of trade-offs with the CEO's other powers, such as to veto and to preside over Board meetings.

In the final analysis, the interviews present a picture of generalized dissatisfaction with the legal structure and functioning of the reorganized form of government. But, there is no agreement about what the problems are or about what changes need to be made in the legal structure of the office of CEO and the Board of Commissioners.

Part IV.

LEGAL STRUCTURE OF SELECTED CHIEF EXECUTIVE COUNTY GOVERNMENTS IN THREE OTHER STATES AND HOW THEY COMPARE TO DEKALB COUNTY GOVERNMENT

Institute staff reviewed the legal structure of three selected chief executive county governments in other states to provide comparative information on the CEO-board relationship. The three counties selected are large, urbanized, and have at least a decade's experience with the elected CEO-board form of government.

County	State	Seat of Government	Year CEO form adopted	1980 Population	Area in Square Miles
Mercer	New Jersey	Trenton	1975	307,863	227
Montgomery	Maryland	Rockville	1968	579,053	495
Oakland	Michigan	Pontiac	1974	1,011,793	875

Institute staff analyzed the legal structures of these governments as contained in statutes or county charters and solicited opinions on the workings of the CEO-board form of government from executive branch officials in the three governments. Figure 1 presents a comparison of selected areas of concern (identified in the interviews discussed in Part III). Sections A, B, and C of Part IV present the law pertaining to the CEO and board in the three counties and the comments of officials in the three counties.

Figure 1 shows form of government similarities and differences among DeKalb County and the other three counties. The veto provision is essentially the same in all four counties. In three, there are provisions that place some limits on board contacts with executive branch staff and, in four, the board may employ staff of its own. The appointing power varies. In two counties, Mercer and Montgomery, the CEO has the power to appoint persons to boards. In Oakland County, the board has this power. Regarding the CEO's role in legislation, none of the comparative counties provide for the CEO to preside at board meetings or to have any vote in legislative matters; only DeKalb has provisions for the CEO to preside and have any vote. It is in the area of legislation that the DeKalb form of government differs the most from the other three.

FIGURE 1

LEGAL POWERS OF THE CEO AND BOARD OF COMMISSIONERS IN
SELECTED AREAS OF CONCERN: DEKALB COUNTY AND THREE OUT-OF-STATE COUNTIES
USING ELECTED CEO-COMMISSION FORM OF GOVERNMENT

	DeKalb County, GA CEO Board	Mercer County, NJ CEO Board	Montgomery County, MD CEO Board	Oakland County, MI CEO Board
Appointment To Boards	(see Part II., B.) (see Part II., B.)	appoints and consents	appoints, except confirms park and planning commission	appoints
Presiding at Board Meetings	presides at his discretion; vote only to break a tie	does not preside; may partici- pate in discussion; no vote	an elected member presides budget and information only; no vote	an elected member presides may be present and participate; no vote
Veto of Board Action	veto, except in zoning matters	veto	veto, except in zoning matters	veto, except in board appointments and certain resolutions
County Staff	appoints and supervises	appoints and supervises	no direction to staff; may provide for board employees	may appoint own staff to assist board

A. COUNTY EXECUTIVE GOVERNMENT:
MERCER COUNTY, NEW JERSEY
(New Jersey Statutes Annotated, Title 40:41A-35 et seq.
and Amendatory Acts)

TOPIC

GOVERNING
BODY

The governing body includes both the board of freeholders (board of commissioners) and the county executive.

LEGISLATIVE
BRANCH:
BOARD OF
COMMISSIONERS
(FREEHOLDER
BOARD)

The legislative power of the county is vested in the board of freeholders (board of commissioners). Term of office is four years. The legislative power is exercised by ordinance, except for the following powers which are required to be, or are permitted to be, exercised by resolution:

(legislative
power)

- (1) the establishment of a municipal advisory council;
- (2) the conduct of an inquiry or investigation;
- (3) the expression of disapproval of the, suspension or dismissal of officers or employees;
- (4) the exercise of the power of advice and consent to actions of the executive;
- (5) the override of a veto of the county executive;
- (6) the adoption of rules for the board;
- (7) the establishment of times and places for board meetings;
- (8) the establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee;
- (9) the declaration of emergencies;
- (10) the identification of emergency situations;
- (11) application for a county department of civil service;
- (12) designation of qualified newspapers;
- (13) the appointment and removal of such officers and employees as is permitted by law;
- (14) approval of contracts presented by the county executive;
- (15) actions specified as resolutions in the "local budget law;"
- (16) consent to municipal ordinances or resolutions regulating under law traffic or parking on county roads, except that the resolution of consent is subject to the approval or veto of the county executive, as provided for in the case of ordinances, and subject to the requirements set forth for overriding a veto; and
- (17) the expression of such board policies or opinions as require no formal action by the board.

The board:

- (1) advises and consents to all appointments by the executive for which board confirmation is specified under the charter;
- (2) passes in accordance with law whatever ordinances and resolutions it deems necessary and proper for the good governance of the county;
- (3) appoints a clerk to the board who keeps the records and minutes of the board, and who serves at the pleasure of the board or for such term, not to exceed three years, as may be provided by the county administrative code;
- (4) may appoint legal counsel to the board, if such position is created by the county administrative code, to serve at the pleasure of the board;
- (5) may pass a resolution of disapproval or dismissal;
- (6) may override a veto of the county executive by a two-thirds vote of its full membership; and
- (7) approves the annual operating and capital budgets pursuant to the local budget, law.

(chairman
and vice-
chairman:
selection)

At its organizational meeting each year, the board selects one of its members to serve as chairman and one as vice-chairman for the year.

EXECUTIVE
BRANCH:
COUNTY
EXECUTIVE
(qualifi-
cations)

The county executive must be a qualified voter of the county and reside in the county. He is to be elected from the county at large for a term of four years.

(vacancies)

The office of county executive is to be deemed vacant if the incumbent moves his residence from the county or he is by death, physical or mental illness, or other casualty unable to serve as county executive. Any vacancy in the office is filled in the manner prescribed by law for the election of county officers at the next general election occurring not less than 60 days after the occurrence of the vacancy. The board of freeholders (board of commissioners) may appoint one of their number or the chief administrator to serve as acting county executive until a successor has been elected. During the temporary absence or temporary disability of the county executive, the chief administrator serves as acting county executive.

(duties)

The executive power of the county is exercised by the county executive, and he must:

- (1) report annually to the board of commissioners and to the people on the state of the county, and the work of the previous year; he also recommends to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;
- (2) prepare and submit to the board for its consideration and adoption an annual operating budget, and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;
- (3) enforce the county charter, the county's laws, and all general laws applicable thereto;
- (4) supervise the care and custody of all county property, institutions, and agencies;
- (5) supervise the collection of revenues, audit and control all disbursements and expenditures, and prepare a complete account of all expenditures;
- (6) sign all contracts, bonds, or other instruments requiring the consent of the county;
- (7) review, analyze, and forecast trends of county boards, commissions, agencies, and other county bodies, and report and recommend thereon to the board;
- (8) develop, install, and maintain centralized budgeting, personnel, and purchasing procedures as may be authorized by the county administrative code;
- (9) negotiate contracts for the county subject to board approval; make recommendations concerning the nature and location of county improvements, and execute improvements determined by the board;
- (10) assure that all terms and conditions, imposed in favor of the county or its inhabitants in any statute, franchise, or other contract, are faithfully kept and performed; and
- (11) serve as an ex officio nonvoting member of all appointive bodies in county government.

(powers)

The county executive:

- (1) supervises, directs, and controls all county administrative departments;
- (2) with the advice and consent of the board, appoints the county legal counsel, the county administrator, the heads of all departments and any divisions created within such departments,

- and the members of all county boards, commissions, and authorities;
- (3) may, at his discretion, remove or suspend any official in the unclassified service of the county whose office the county executive has power of appointment to in accordance with the provisions of law;
 - (4) may, at his discretion, but subject to any pertinent provisions of the county administrative code or civil service requirements, delegate to department heads powers of appointment and removal of their department employees. If the county executive does not so delegate his power, he may appoint and remove, subject to civil service requirements, all employees whose positions have been created in accordance with the administrative code, and the manner of whose appointment is not specified elsewhere in the law;
 - (5) may require reports and examine the accounts, records, and operations of any agency of county government;
 - (6) may, at his discretion, order any agency under his jurisdiction, as specified in the county administrative code, to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration of the county government to do so; and
 - (7) approves each ordinance of the board by signing it, or may veto any ordinance by returning it to the clerk of the board within 10 days of passage with a written statement of his objections to the ordinance. If two-thirds of the full membership of the board, upon reconsideration of the measure, vote for it, the executive's veto is overridden and the ordinance becomes law without the executive's signature in accordance with the provisions of law.

(at meetings) The county executive may be present and participate in discussions at all board meetings.

(administrator: appointment) The county executive appoints an administrator who serves at his pleasure. The board must advise and consent to the appointment of the administrator, but cannot prevent his suspension or dismissal by passage of a resolution of disapproval.

(qualifications) The administrator must, by education, experience, and ability, be qualified to perform the duties established for him. He need not be a resident of the county at the time of his appointment, but

during his tenure he may live outside the county only with the permission of the county executive.

(duties)

The administrator is responsible only to the executive. Under the direction and supervision of the executive, he undertakes to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the executive deems necessary and proper. The administrator is not prohibited from being appointed to head one or more departments on a temporary or permanent basis.

SEPARATION OF POWERS

The board of freeholders (board of commissioners) deals with county employees only through the official responsible for the overall executive management of the county's affairs as designated in the charter (i.e., through the county executive). All contact with county employees, all actions and communications concerning the administration of the county's government and provision of services is through the county executive, except as otherwise provided by law. The charter is not to be construed to prohibit the board's enquiry into any act or problem of the county's administration. Any board member may require a report on any aspect of the government of the county at any time by making a written request to the county executive. The board may, by majority vote of the whole number of its members, require the county executive to appear before the board, sitting as a committee of the whole, and to bring before the board such records and reports, and such officials and employees of the county as the board deems necessary to insure clarification of the matter under study. The board further may, by majority vote of the whole number of its members, delegate any number of its members as an ad hoc committee to consult with the county executive to study any matter and to report to the board thereon. The stated goal of the creating act is to confer on the board general legislative and such investigative powers as are germane to the exercise of its legislative powers, but to retain in the county executive full control over the county administration and over the administration of county services provided for in the act.

Comments from the Mercer County Executive:

Mercer County happens to be one of five executive charter forms of government in New Jersey, and the only one that has a legislative body dominated by the party opposite that of the executive. Therefore, I may have some greater understanding of overlapping legal authority and problems with interaction between the executive and board. In New Jersey, the elected executive is

entitled to select counsel which will represent the governing body. His choice is submitted to the legislative body for their advice and consent. Board counsel may be selected by the board when the board differs from the executive in terms of actual development of policy or programs. However, county counsel remains the sole representative of the county for other purposes.

I am given to understand that the natural friction that develops between the legislative and executive bodies is part of the "plan" and has its basis in the "checks and balances" that are alluded to in most federal and state governments of parallel makeup. Frankly, I find the process cumbersome and difficult, particularly when there are political overtones which manifest themselves at every opportunity. However, it has been my position that the executive form of government is a superior form of government to the commissioner or, as we call it only in New Jersey, the "freeholder" form of government.

B. ELECTED COUNTY EXECUTIVE-COUNTY COUNCIL GOVERNMENT:
MONTGOMERY COUNTY, MARYLAND
(Chapter 585, Laws of Maryland 1970 and Amendatory Acts)

TOPIC

LEGISLATIVE BRANCH: COUNTY COUNCIL	The county council has the power to: (a) enact public local laws upon certain matters for the county previously enacted by the General Assembly and (b) legislate for the peace, good government, health, safety, or welfare of the county.
(composition and election)	The county council is composed of seven members nominated and elected by the qualified voters of the entire county. Each of five members of the council must, at the time of election, reside in a different one of the five councilmanic districts of the county. The term of office is four years. Vacancies are filled for the unexpired term by the remaining council members; if the council has not acted to fill a vacancy within 30 days, the county executive appoints a person to fill the vacancy.
(council officers)	The council elects, from among its members, a president of the council, who presides over meetings. The council may provide for the selection of such other officers or employees as it may deem desirable.
(exercise of zoning, planning, & other powers)	The powers relating to zoning, planning, or subdividing are to be exercised by the council, as prescribed by law, and the exercise of these powers is to be exempt from veto by the county executive.
(enactment of legislation)	The council is to enact legislation only after a public hearing and upon reasonable notice. Enactment of legislation requires a majority vote. Emergency legislation requires the affirmative vote of at least five members of the council for enactment.
(limitations)	Neither the council, nor any member, can appoint, dismiss, or give directions to any individual employee of the executive branch of the county government.
(removal of council members)	A member of the county council may be removed from office by the affirmative vote of not less than five members of the council after a public hearing and upon a finding that the council member is unable by reason of physical or mental disability

to perform the duties of the office. The decision of the council may be appealed by the removed council member to the circuit court.

EXECUTIVE
BRANCH:
COUNTY
EXECUTIVE

The executive power is vested in a county executive who is the chief executive officer of the county and who must faithfully execute the laws. The county executive has no legislative power except the power to make rules and regulations expressly delegated by the charter or by law enacted by the council.

(election
and term
of office)

The county executive is elected by the qualified voters of the entire county at the same time as the council and serves for a term of office of four years, or until a successor has qualified.

(qualifica-
tions)

The county executive must have been a resident of the county for the year preceding his election or appointment, cannot be less than thirty years of age, must be a qualified voter of the county and not hold any other office of profit in federal, state, county, or municipal government. The county executive must not, during his term of office, be eligible for appointment to any other county office or position carrying compensation. The county executive must devote full time to the duties of the office and not participate in any private occupation for compensation.

(vacancies)

Vacancies are filled for the unexpired term by the county council. If the council has not made an appointment within 45 days, the council is to appoint within 15 days thereafter the nominee of the county nominating committee. The chief administrative officer (see below) must act as county executive until the vacancy has been filled.

(removal)

The county executive may be removed from office by the affirmative vote of not less than five members of the council after a public hearing and upon a finding that the county executive is unable by reason of physical or mental disability to perform the duties of the office. The decision of the council may be appealed by the county executive to the circuit court.

(temporary
absence or
disability)

In the event of the temporary absence or disability of the county executive, the chief administrative officer performs the duties of the county executive, unless the county executive designates in writing some other person in the executive branch.

(veto)

Upon the enactment of any legislation by the council, it must be delivered within three days to the county executive who within ten days thereafter must approve or disapprove the legislation. The council may enact legislation over the disapproval of the county executive by the affirmative vote of five council members. Any legislation which has not been approved or disapproved by the county executive becomes law on the fourteenth day after enactment.

(information on executive branch)

The county executive must provide the council with any information concerning the executive branch that the council may require for the exercise of its powers.

(chief administrative officer)

The county executive must appoint a chief administrative officer, subject to confirmation by the council. The chief administrative officer must be a professionally qualified administrator. He serves at the pleasure of the county executive, with compensation determined by the county executive subject to the approval of the council.

(duties of the chief administrative officer)

The chief administrative officer must, subject to the direction of the county executive, supervise all departments, offices, and agencies of the executive branch, advise the county executive on all administrative matters, and perform such other duties as may be assigned by the county executive or by the charter.

(principal departments)

In the executive branch, there must be an office of the county attorney, a department of finance, and any departments, agencies, offices, or other bodies prescribed by the charter or by the council by law.

(county attorney)

The county executive appoints the county attorney subject to confirmation by the council.

(appointment of department heads and board and commission members)

The county executive, after receiving the advice of the chief administrative officer, appoints a single officer to head each principal department, office, or agency of the executive branch, subject to the confirmation of the council. Except for commissions appointed to advise the council, the county executive appoints, subject to the confirmation of the council, all members of boards and commissions unless otherwise prescribed by state law or the charter.

(appointment of other employees of the executive branch)

Unless otherwise specifically provided for in the charter, all employees of the executive branch are appointed and removed and their salaries fixed under the merit system by the heads of the several departments, offices, and agencies of the county.

(reorganization of the executive branch)

The council may prescribe by law the organization of the executive branch of county government. The county executive may submit written plans to the council for reorganization. A reorganization plan becomes law 90 days following its presentation to the council, if by that time it has not been disapproved by the council.

(budgets)

The county executive must submit a budget to the council. The council may add to, delete from, increase, or decrease any item in the budget. Upon approval of the budget, it must be delivered to the county executive who may thereafter disapprove or reduce any item contained in it. The council may reapprove any item over the disapproval or reduction of the county executive by the affirmative vote of five members.

Comments from Montgomery County Assistant Chief Administrative Officer:

Montgomery County government is typical of the elected executive form in Maryland.

When we adopted the present form of government, there were no serious problems regarding the delegation of powers because Baltimore County had adopted this form several years before and therefore we profited from their experience. With the exception of the issue as to who appointed the planning commission, nothing of significance occurred.

Our executive does propose legislation amending the county code; submits the budget and long-range water and sewer plan; and, through his staff, generally involves himself in other issues that come before the council. But the separation of the two branches is rigidly adhered to and it is only on major issues that the executive personally involves himself in the council's policy formulation process.

The executive appoints the members of practically all boards and commissions in the county which number about 65 at present, with total appointments of about 500 people. The council confirms in every case, with the exception of park and planning commissioners who are appointed by the council and confirmed by the executive. The general process for filling board vacancies is to advertise in local newspapers, as well as through press releases, to various county organizations, announcing vacancies and where and how to apply. The executive often discusses names

with council informally before officially notifying them of appointments. If objections are raised, he then makes a decision whether to forward the appointment or withhold for further discussion. Council receives appointments, schedules interviews with the appointees, and then takes official action at a regularly scheduled meeting. Occasionally the council will reject a nominee. It is then up to the executive as to whether he wants to resubmit the name, submit a new name, or let the incumbent serve for an indefinite time. This situation has happened on only one or two occasions since the elected executive plan became operative in 1970.

C. ELECTED COUNTY EXECUTIVE GOVERNMENT:
OAKLAND COUNTY, MICHIGAN
(Michigan Compiled Laws Annotated Sec.45.551 et seq.
and Amendatory Acts)

TOPIC

GOVERNING
AUTHORITY

Elected county executive with a board of county commissioners consisting of 27 members elected in partisan elections from districts of approximately equal population. The term of office is two years.

LEGISLATIVE
BRANCH:
COUNTY
COMMISSIONERS
(powers)

The board may:

- (a) establish policies and exercise all powers and duties vested in boards of county commissioners not inconsistent with the act creating this form of government;
- (b) adopt ordinances and rules necessary for the conduct of county business and exercise all other powers in the area of legislation authorized by the creating act or by law;
- (c) establish committees of the board necessary for the efficient conduct of business;
- (d) adopt the annual county budget and work program, and adopt, revise, and update a long-range capital improvement program and capital budget;
- (e) make appropriations, levy taxes, and incur indebtedness in the manner authorized by law for the carrying out of functions, powers, and duties granted or imposed upon the county or upon an office or department of the county as provided by law;
- (f) establish salaries of elected officials and heads of boards, commissions, and departments unless otherwise fixed by law; adopt a classification and pay plan for positions in the county service, which must provide uniform compensation for like service;
- (g) adopt, following a public hearing, personnel rules governing county employment and operation of a merit system if adopted as provided by law;
- (h) appoint members of boards, commissions, or authorities;
- (i) inquire into and investigate the official conduct and audit the accounts of county offices;

- (j) appoint a staff to assist the board in post-audit and investigative functions;
- (k) appoint necessary personnel to assist the board;
- (l) adopt and revise a comprehensive plan for county development as provided by law;
- (m) adopt and enforce rules establishing and defining the authority, duties, and responsibilities of county departments and offices;
- (n) consolidate county departments, or transfer functions from one department to another;
- (o) enter into agreements with other governmental or quasi-governmental entities for the performance of services jointly; and
- (p) accept gifts and grants-in-aid from a government or private source.

EXECUTIVE
BRANCH:
COUNTY
EXECUTIVE
(term of
office,
vacancies,
etc.)

The county executive is elected on a partisan basis for a term of four years. Vacancies due to resignation or death shall be filled by appointment of the board of county commissioners until the next general election. The newly elected county executive serves a term equal to the balance of the term for which the county executive who resigned or died was elected.

(duties)

A county executive shall:

- (a) supervise, direct, and control the functions of the departments of the county except those headed by elected officials;
- (b) coordinate the various activities of the county and unify the management of its affairs;
- (c) enforce all orders, rules, and ordinances of the board and laws of the state required to be enforced by his office;
- (d) prepare and submit to the board a recommended annual county budget and work program, and administer the expenditure of funds in accordance with appropriations; submit to the board a proposed long-range capital improvement program and capital budget;
- (e) appoint, supervise, and, at his pleasure, remove heads of departments other than elected officials; the appointment of heads of departments requires the concurrence of a majority of the county board of commissioners;
- (f) submit recommendations to the board for the efficient conduct of county business;
- (g) report to the board on the affairs of the county and its needs, and advise the board

not less than every three months on the financial condition of the county;

- (h) perform other duties and activities as the board directs; and
- (i) audit all claims which are chargeable against the county;

(at meetings)

The county executive may attend meetings of the board of commissioners, and may participate in accordance with the rules of the board, which are to allow for his participation.

(veto power)

With several exceptions, the county executive may veto an ordinance or resolution adopted by the board, including items of an ordinance appropriating funds. The board may override the veto by a two-thirds vote of all members elected and serving. The county executive may not approve or disapprove resolutions or motions pertaining to any of the following:

- (a) the organizational structure of the county board of commissioners;
- (b) appointments by the county board of commissioners;
- (c) resolutions concerning the county board of commissioners' policy positions as to pending legislation; and
- (d) the abolishment of the optional unified form of county government (creating the government form here).

Comments from the Oakland County Deputy Executive:

Day to day, we function very well. Our CEO was the appointed head of county government for eleven years before we went to the elected CEO form so his knowledge was a great help in getting the new form going.

The board of commissioners was reluctant to relinquish authority, and our biggest problem in separation of powers is that the board wants to administrate. They want to "poke" in the departments, but that's the nature of the beast. The board also feels it needs independence in policy development and appoints its own staff, one "heavyweight" and the rest clerks. But, most county services are mandated by the state legislature, so the policy the board sets is mostly administrative policy.

The CEO has a strong hand in fiscal matters and that's where his power is. The CEO may participate in board meetings, but usually leaves them alone. He used to take a "heavier hand" in board meetings, but now we lobby ahead of time. (The deputy executive serves the CEO.) In the legal structure, the executive is deficient in that the CEO doesn't administer all county functions. For example, road commissioners appointed by the

board are practically autonomous and have their own funds. Parks and recreation commissioners, too, are set up by the board. In Michigan, we have a "weak-executive" law. It is a major problem, and we are looking toward a new law with a stronger CEO and a cleaner structure; that is, control by the board of commissioners and CEO over things such as roads. We are going very well, but not as well as we could go.

Appendix A.

DEKALB COUNTY LOCAL ACTS AND CONSTITUTIONAL
AMENDMENTS SPECIFICALLY REFERRING TO DEKALB COUNTY, DESIGNATED
IN VOLUME 42 OF OFFICIAL CODE OF GEORGIA ANNOTATED
AS CURRENT LAW

Ga. Laws	P	Subject Matter	Topic
1915	210	DeKalb Treasurer's office abolished and county depository provided. Commissioner of Roads and Revenues shall annually appoint some bank as a depository for the county funds. "Vacancies" due to failure of fiduciary duties will be filled by the Commissioner.	Treasurer abolished; depository
1937	20	(Constitutional amendment) Authorized governing authority to establish districts for fire prevention, sanitation, and/or water and levy taxes therefor.	fire prevention; sanitation; water; taxes
1941	69	Authorized the board of commissioners to establish and administer sewerage, water, and/or fire prevention systems; to establish and maintain parks and hospitals; and to levy taxes or assessments on property therefor.	sewerage; water; fire prevention; parks; hospitals; taxes; property assessments
1941	830	(Amending Ga.L. 1915, p.210) It shall be the duty of the Commissioner of Roads and Revenues to require that all funds belonging to the county be paid into the depository within 16 days of receipt. The Commissioner may appoint and designate any bank or banks doing business in the county, other than said depository, and deposit any or all county funds therein, except those which accrue to the county as a result of the collection of taxes and fees of the various officers of the county and fines and forfeitures.	depository
1943	18	Constitutional amendment authorizing DeKalb County to enter into contracts with the City of Atlanta and Fulton County or with a Hospital Authority without the necessity of an election and irrespective of the debt limitation provision of the Constitution by a majority vote of the governing body or bodies of the respective political subdivisions. (Continued in Ga.L. 1986, p.4783.)	contracts with Atlanta or Fulton County or Hospital Authority

1943	20	Constitutional amendment directing county authorities to levy a tax for educational purposes subject to the approval of the voters of the county. (Continued in Ga.L. 1985, p.4080.)	educational tax
1943	930	Authorized the Commissioner of Roads and Revenues or other governing authority to create a County Planning Commission composed of five members to be appointed by said Commissioner or other county authority by and with the approval of the Grand Jury.	County Planning Commission
1947	516	Salary of County Commissioner of Road and Revenues and how paid.	Commissioner salary
1947	839	County Commissioner given the right to establish a department of investigation of DeKalb County at any time he deems it necessary. Chief of said department shall be appointed by the County Commissioner upon approval of the Judge of the Superior Court of the Stone Mountain Circuit and the Sheriff of DeKalb County. The Chief is to serve at the pleasure of those officials and may be discharged by the concurrent vote of any two.	department of investigation
1947	1755	A resolution to propose an amendment to the Constitution to provide that the General Assembly may grant to the governing authority of DeKalb County the right to construct or repair streets and sidewalks and to lay curbing, water and sewer mains, and to assess the costs thereof pro rata against the abutting property owners, provided the owners of 51% of the property abutting such improvements shall consent.	streets and sidewalks; property assessments
1947	1759	Constitutional amendment authorizing DeKalb County to issue revenue anticipation bonds for grandstands and stadiums. (Continued in Ga.L. 1986, p.4786.)	bonds for grandstands and stadiums
1949	380	(Ga.L. 1947, p.516, above, ratified and approved.)	

1949	1590	Authorized governing authority to establish and administer a sewerage system and to levy taxes therefor and to establish a Sewer Department and appoint necessary personnel.	sewerage; taxes; hiring sewerage personnel
1949	2121	Proposed amendment to the Constitution to provide that the General Assembly may grant to the governing authority of DeKalb County the right to provide for the construction and maintenance of streets, sidewalks, and curbing within any subdivision of the county located outside the corporate limits of any municipality with certain frontage restrictions and to assess the cost thereof pro rata against the property owners, provided the owners of 51% of the property abutting such improvements consent. (Continued in Ga. L. 1985, p.3728.)	streets and sidewalks; assessments
1949	2137	Proposed amendment to the Constitution authorizing the General Assembly to enact laws creating a Civil Service Commission and civil service system and merit system for employees of DeKalb County. (Ratified at the 1950 general election and proclaimed as part of the 1945 Constitution and continued in the Constitutions of 1976 and 1983; continued in Ga.L. 1985, p.3771.)	Civil Service Commission; Merit System
1951	2345	Authorized DeKalb County and the governing authorities thereof to provide for the construction and maintenance of streets, sidewalks and curbing, and to levy assessments therefor: to carry into effect an amendment to the Constitution relating to the authority of DeKalb County to construct and maintain such streets, sidewalks, and curbing: to authorize said authorities to employ the necessary personnel for such maintenance and construction: to provide that said county authorities may assess abutting property for the costs thereof, etc.	streets and sidewalks; assessments

1956

3111 Authorized board of commissioners as governing authority by resolution to create and establish a merit system of personnel administration to be known as the DeKalb County Merit System, which resolution shall specify the department, personnel, and officers of the county government covered by the system. Also, the governing authority is authorized to establish a merit system council composed of three members appointed by the governing authority. No council member can have been an employee of DeKalb County for 12 months prior to his appointment.

DeKalb Co.
Merit System

1956

3237 Creation of Chairman (chief executive officer) and Board of Commissioners of Roads and Revenues constituting the governing authority of the county and consisting of four members (each representing a commissioner district) and the chairman. DeKalb County divided into four commissioner districts. Election of vice-chairman from and by members of board to perform the duties and authority of the chairman in the event of the chairman's death, disqualification, or resignation until a new chairman is chosen. The chairman and any two members of the commission, or any three members of the commission exclusive of the chairman, shall constitute a quorum to do business and no official action shall be taken except upon the affirmative vote of at least three members of the commission, or two members and the chairman. The chairman shall be entitled to the same voting rights as other commission members on questions considered by the commission. The commission shall exercise only those administrative powers which are necessarily and properly incident to its function as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions. Actions taken by the chairman in conflict with such adopted

1956 Form
of Govern-
ment

resolutions and dealing with matters exclusively reserved to the jurisdiction of the commission (including the power to levy taxes, make appropriations, fix the rates of all other charges, authorize the incurring of indebtedness, enact any ordinances or other legislation the county may be given authority to enact, etc.) shall be null, void, and of no effect. Chairman given exclusive power and authority to appoint, remove, and fix the compensation of, within budgetary provisions, all employees and officials of the county, except as to (a) boards or positions created by state statute, and (b) elected officers and their employees. Such appointment and/or approval shall be subject to approval by the board in the case of director of finance and the county attorney. Appointment of statutory positions, where not otherwise prescribed by such statute, shall be made by the chairman, subject to approval of the board, within budgetary provisions. The chairman shall appoint his own executive assistant. Departments of county government established (Finance, Water, Public Works, Public Safety, Fire, Parks and Recreation, Law, Buildings and Inspections, Sewer, and Zoning and Planning).

1956

3332

Authorized governing authority of DeKalb County to create by resolution a DeKalb County Planning Commission consisting of five members appointed by the governing authority. The governing authority of each municipality lying wholly within the limits of DeKalb County by ordinance and the governing authority of the county by resolution are authorized to create a municipal-county planning commission consisting of five members--two to be appointed by the county governing authority. Members of the planning commissions may hold no other county office or position except that one of each may be a

DeKalb Co.
Planning
Commission

member of the board of zoning adjustments. Vacancies shall be filled in the same manner as the initial appointments. The appointing governing authority shall have authority to remove any member for cause. The governing authority of the county may also create a board of zoning adjustments by resolution or the governing authority of each municipality lying wholly within the limits of DeKalb County by ordinance and the governing authority of DeKalb County by resolution are authorized to create a joint board of zoning adjustments. The board of adjustments shall consist of five members, one of whom shall be a member of the county planning commission appointed by that body and four of whom shall be appointed by the governing authority. The joint board of zoning adjustments shall consist of five members, two of whom shall be appointed by the county governing authority. Any vacancy shall be filled for the unexpired term in the same manner as the initial appointment. The appointing authority shall have authority to remove any member for cause and shall determine the amount of compensation, if any, to be paid the members of a board of zoning adjustments. (Planning Commission provision amended by Ga.L. 1986, p.5672.)

Board of
Zoning
Adjustments

1958

582

Proposed amendment to the Constitution authorizing the General Assembly to empower the board of commissioners to enact ordinances for the policing and governing of the county and the enforcement of all duties and powers now or hereafter vested in the board and to provide penalties for violation of such ordinances; to authorize the licensing and regulation of businesses and levying of license taxes on businesses in the unincorporated area of the county. (Continued in Ga.L. 1985, p.4279.)

power to
enact ordinances for
policing
and governing;
business
licenses

1959	2481	Board empowered to adopt all ordinances and regulations as it may deem advisable not in conflict with general laws for governing and policing the county for protecting the health, safety, welfare, and morals of county citizens with regard to all road vehicles, the keeping of animals, zoning, building codes, protection of county property, fire safety, the erection of structures or obstructions near roads in unincorporated areas of the county, prevention of public disorder, to provide penalties for the violations of these ordinances, and to empower the Recorder's Court to adjudicate any cases arising from the violation of these ordinances.	power to enact ordinances
1959	2636	Revised 1956 Act by redefining the commissioner districts three and four and providing a new method of filling vacancies in the offices of chairman or board members.	redistricting; filling of vacancies
1959	2658	Revised 1956 Act to allow board to regulate businesses within the county.	business regulation (licensing)
1961	3461	Provides for the allowance of auto and clerical expenses for board members; provides that board members running for chairman must resign their office first (repealed by Ga.L. 1984, p.4675); chairman may establish rules and regulate purchasing services of all county departments, offices and agencies; formal sealed bids, after publication of notice, must be obtained on all purchases exceeding \$500; deletes from department of finance the authority to establish and regulate purchasing; provides for filling of vacancies in office of chairman and members of the board.	board expenses; chairman may establish rules and regulate purchasing services; sealed bids; filling of vacancies
1962	1133	Proposed amendment to the Constitution would authorize DeKalb County to levy a tax and/or charge an assessment on any business operat-	tax on buses

ing buses in certain areas of DeKalb County.

1962	2377	Created the bond commission for DeKalb County composed of 13 members including the chairman of the board of commissioners who will be an ex officio member to serve as long as he remains in office as chairman of the board of commissioners. Vacancies will be filled by the remaining members of the bond commission.	bond commission
1962	3088	Created Pension Board of DeKalb County consisting of seven members, one of whom shall be the chairman of the board of commissioners, one of whom shall be elected by the board of commissioners . . . ; the seventh member shall be appointed by the voting members, but in case of a tie, the board of commissioners shall appoint the seventh member. [Amended by Ga.L.1985, p.5164, but no changes were made with regard to the materials detailed here.]	Pension Board
1964	990	Proposed amendment to the Constitution would authorize DeKalb County to levy a tax so as to pay administrative costs of collecting the actual pro rata costs of the construction of sewers.	sewer tax
1964	1008	Proposed amendment to the Constitution to declare establishment, operation, and administration of the system of public transportation of passengers for hire in DeKalb County, etc. The county would be authorized to contract with a private corporation created by the General Assembly for transportation purposes.	public transporta- tion and contracting powers
1964	2876	An act amending Ga.L.1956, p.3332 (above) to provide that the DeKalb County Planning Commission shall consist of not less than five nor more than seven members.	DeKalb Co. Planning Commission
1964	2933	(Amending Ga.L. 1915, p.210 and Ga. L. 1941, 830) Deleted the restrictions on deposit regarding the	depository

collection of taxes and fees of the various officers of the county and fines and forfeitures.

1965	2243	Created MARTA and an interim study commission with two members from DeKalb County appointed by the county governing body (this commission ceased to exist when the board of directors was activated). The board consists of 11 members, two members of which are to be from DeKalb County and appointed by the local governing body thereof. This act was amended by Ga.L.1985, p.3609.	MARTA
1966	828	Authorized board of commissioners to provide systems of garbage disposal to all parts of the county, exclusive of any incorporated municipality not wholly lying in DeKalb County (i.e., Atlanta). (Continued in Ga.L. 1985, p.3712.)	garbage disposal
1966	2855	Changed provisions relating to compensation of chairman and board members.	compensation of board
1966	3051	Increased membership of Merit System Council (Ga.L. 1956, p.3111) from three to five members.	Merit System Council
1967	3480	Increased compensation to chairman and board members.	compensation of board
1968	3658	Reconstituted the four commissioner districts.	redistricting
1969	2568	Created DeKalb County Coliseum Authority, consisting of five members; vacancies are filled by a majority vote of the governing authority.	DeKalb Co. Coliseum Authority
1969	3611	Provides that the governing authority of DeKalb County shall fill any vacancies occurring in the membership of the DeKalb County Hospital Authority by majority vote.	DeKalb Co. Hospital Authority
1969	3795	Required publication of audits on a quarterly basis, etc.	audits

1969	3866	Changed method of filling vacancies on board.	vacancies on board
1970	3097	Authorizes and directs the chairman and the board of commissioners to immediately create by ordinance the DeKalb County Community Relations Commission to be composed of 21 members to be selected by the chairman of the board of commissioners with the advice and consent of the members of the board of commissioners. The chairman of the board of commissioners also selects the chairman of the new commission. (Amended by Ga.L.1986, p.56-85.)	DeKalb Co. Community Relations Commission
1970	3184	Increased number of board members to seven--four to be elected from commissioner districts and the chairman and two other commissioners to be elected at-large. The chairman and any three commission members constitute a quorum, or any four members exclusive of the chairman. No official action shall be taken except upon the affirmative vote of at least four members of the commission, or three members and the chairman. The chairman shall be entitled to the same voting rights as other commission members on questions considered by the commission.	increased board size
1970	3499	Chief of Police placed under Merit System and made directly responsible to the board of commissioners.	Chief of Police; Merit System
1970	3505	County purchasing resolution increased ceiling of purchases not requiring sealed bids from \$500 to \$1000.	county purchasing (sealed bids)
1970	3510	Chairman to deliver proposed budget to commission not later than November 1 of each year. The commission shall employ a certified public accountant for the making of an annual continuous audit.	budget; CPA
1970	3518	DeKalb County Merit System Council to be composed of three members	DeKalb Co. Merit

		rather than five as allowed by statute.	System Council
1970	3518	Effectuated Ga.L. 1966, p.3051, above.	Merit System
1971 Ex.Sess.	2195	Authorized the board of commissioners to pay the county board of education a portion of any revenue received by DeKalb County pursuant to the provisions of the "Revenue Tax Act to Legalize and Control Alcoholic Beverages and Liquors" (Ga.L. 1937-38, p.103) in the event the provisions of such act become effective in DeKalb County (provided that such portion to be allocated to the board of education shall not be less than 50% of such revenue).	liquor tax revenues
1972	1490	Proposed amendment to the Constitution would allow the governing authority of DeKalb County to levy a tax on the sale of certain intoxicating beverages.	liquor tax
1972	3602	Provided certain requirements for the sale of land.	land sale
1972	3664	Compensation of chairman and members of board changed.	compensation of board
1974	2592	Created the DeKalb County Oglethorpe Housing Foundation, with a board of directors composed of seven members appointed by the Chairman of the Board of Commissioners with the advice and consent of the board of commissioners; vacancies and successors are to be filled/chosen in the same way. The Chairman of the Board of Commissioners or his designee shall serve as an ex officio nonvoting member of the board of directors. (There are no significant changes in subsequent Ga.L. 1975, p.3053.)	DeKalb Co. Oglethorpe Housing Foundation
1974	3785	Provided that if any board member shall qualify for nomination or election to any other elective office, his position on the board	vacancies

is vacated. (This provision was stricken in Ga.L. 1984, p.4676.)

1974	3995	Changed the board's monthly meeting time.	meeting time
1975	1695	Constitutional amendment authorizing the governing authority to contract with private firms for garbage and solid waste collection and disposal. (Continued by Ga.L. 1986, p.5047.)	garbage and waste collection and disposal
1975	4533	Population statute authorizing use of "Sold" signs on certain property.	sale of property
1976	1798	(Constitutional amendment) Created DeKalb County Solid Waste Disposal Authority consisting of seven members to be appointed by the board of commissioners--two members of the authority shall be members of the board of commissioners elected from commissioner districts and one member of the Authority shall be a member of the board of commissioners elected by the voters of the entire county (such members of the Authority shall cease to be members of the Authority if they are no longer members of the board of commissioners). Vacancies shall be filled for any unexpired term by the board of commissioners.	DeKalb Co. Solid Waste Disposal Authority
1976	1825	Authorizes board of commissioners to pay claims of \$200 or less for damages to personal property caused by employees of the county acting within the scope of their employment. (Continued in Ga.L. 1985, p. 5006.)	tort claims
1976	2658	Board authorized and empowered to adopt ordinances prescribing penalties and punishment for violation of ordinances adopted by the board.	penal ordinances
1976	2826	Established the Developmental Disabilities Planning and Coordinating Council of DeKalb County consisting of such members as shall be appointed by the board of commissioners from candidates recommended	Developmental Disabilities Planning and Coordinating Council of DeKalb Co.

by representatives of the interests comprising the membership areas; the members representing elected or appointed officials shall include at least one representative from the board of commissioners.

1976	2926	Established DeKalb County Airport Authority consisting of seven members--six to be appointed by the board of commissioners and the seventh member to be appointed by the Airport Authority itself. Vacancies are filled by the governing authority. (Amended by Ga.L. 1986, p.5678.)	DeKalb Co. Airport Authority
1976	4486	Increased ceiling on purchases without obtaining bids from \$1000 to \$2500.	county purchasing (sealed bids)
1977	4532	Created the DeKalb County Government Study Committee created to study any matters relative to the county government, etc.	DeKalb Co. Government Study Committee
1978	2370	Proposed amendment to the Constitution authorizing the General Assembly to provide by law for the form of government for DeKalb County and to provide for the various officers, bodies, branches, departments, or agencies by and through which the county's governmental powers shall be exercised.	form of government legislation authorized
1978	2378	Proposed an amendment to the Constitution so as to authorize the governing authority to exempt from ad valorem property taxes levied by DeKalb County and the DeKalb County School System the value of certain improvements to real property in DeKalb County. The provisions of this proposed amendment shall be implemented and terminated at the discretion of the governing authority (however, when terminated, any such exemption which has been established shall continue until a two year period of exemption has expired).	tax exemption for improvements to real property

1978	2474	Proposed an amendment to the Constitution so as to provide for requirements relative to setting the ad valorem tax millage rates for educational and county government purposes by the Board of Education and the Board of Commissioners of DeKalb County. Also provided for the submission of the amendment for ratification or rejection.	educational and county government tax rates
1978	4678	Ordinance by the board deleting from the 1956 act section 14 prescribing the manner of the employment, compensation, and dismissal of county employees and inserting the provision that all non-merit system employees shall be employed, discharged, promoted, and their compensation established in accordance with action by a majority of the board.	hiring and firing of county employees
1978	4683	Ordinance by the board deleting from the 1956 act section 16 providing for the appointment of the executive assistant to the chairman prescribing his qualifications and duties and inserting the provision that such executive assistant shall be appointed and removed by the board; his compensation fixed by the board. The ordinance also prescribes the qualifications of the executive assistant.	executive assistant
1978	4691	Governing authority increased term of Merit System Council Members from three to five years under Home Rule.	Merit System Council
1978	4696	Time of regular meetings changed.	
1979	5	(O.C.G.A. 48-5-290) Created county board of tax assessors to consist of three members to be appointed by the county governing authority.	County Board of Tax Assessors
1979	3563	Changed the provisions relative to penalties that may be prescribed by the board for the violation of county ordinances.	penal ordinances

1979	3656	Changed the appointment provision of the DeKalb County Airport Authority so that all seven members are appointed by the board of commissioners. Vacancies to be filled by the board of commissioners (formerly filled by the governing authority).	DeKalb Co. Airport Authority
1980	3996	Amended 1956 Act so as to provide for a referendum election to be held for the purpose of ascertaining the type of government for the county. Two types were to be offered: Type 1--a government with an elected county commission (with clearly defined legislative powers) and a separate elected chief executive officer (with clearly defined administrative powers). Type 2--a government with an elected county commission with the chairman serving as the CEO with administrative and executive powers clearly defined.	referendum for govern- ment form
1981	4304	Revised 1956 Act. Board of Commissioners and office of Chief Executive Officer (CEO) created. Commission to consist of seven members with five district commissioners (with county being divided into five districts) and two at large commissioners. CEO is elected at large and shall not be eligible to serve more than two consecutive full terms of office. Vacancies on the Commission shall be filled by special election (if 180 or more days remain in the unexpired term) or by appointment of the remaining Commission members (if less than 180 days remain). Vacancies in the CEO shall be filled by the Presiding Officer of the Commission who shall exercise the duties himself (if less than 180 days remain in the unexpired term) or by special election (if more than 180 days remain). Commission powers are somewhat broader, though largely similar to those in the 1956 Act.	1981 Form of Govern- ment

1981	4911	Created DeKalb County Compensation Study Commission, composed of 11 members--three to be elected by the governing authority (expired Dec. 1, 1981).	DeKalb Co. Compensation Study Commission
1982	4235	Changed descriptions of commissioner districts.	redistricting
1982	5123	An ordinance amending Ga.L. 1956, p.3111 to increase the membership of the Merit System Council to five members.	Merit System Council
1982	5127	Changed time of public meetings.	
1983	4547	Referendum changing the powers and duties of the governing authority. Gave commission very broad authority to enact ordinances and regulations where before it had authority to enact only in enumerated areas. The CEO has the authority to appoint the executive assistant. Number of commission members required to discharge an officer lowered from six to five. CEO nominates the executive assistant and the Commission has the authority to confirm the nomination.	'81 Act Sec Sec. 1, Sub. 19(b) Sec. 1, Sub. 13(c) Sec. 1, Sub. 14(a) and (b)
1983	4774	Changed budget submission and approval dates.	budget
1983	4780	An ordinance by the board of commissioners amending Ga.L. 1956, p.3111 to provide for the location and time of Merit System Council meetings, to specify duties of the Merit Council, to provide for the adoption and implementation of a personnel code, and to provide for the review of personnel actions except dismissals.	Merit System Council
1983	4797	Created a License Review Board or boards and defined their duties.	License Review Bd.
1984	4675	Repealed Ga.L. 1961, p.3461, Sec.4 and Ga.L. 1974, p.3785. Provided that chairman shall not be qualified to be a candidate for nomina-	CEO qualifications

tion or election to any other elective office, other than CEO of DeKalb County unless he resigns first.

1984	4916	Changed the provisions relating to the creation of a vacancy in office if the CEO or a board member qualifies for nomination or election to other public office. Changed the provisions of the 1981 Act relative to methods of its amendment (certain sections can be amended only by acts of the General Assembly).	vacancies
1984	5048	Created DeKalb County Recorder's Court and Magistrate Court Study Commission composed of nine members, one member to be a county commissioner appointed by the chairman of the county commission.	Recorder's and Magistrate's Court Study
1984	5293	An ordinance amending Ga.L. 1956, p.3332, pertaining to a County Board of Zoning Adjustments, by substituting the provisions relating to the Board of Zoning Adjustments and providing that the governing authority of the county may create by resolution a board of zoning appeals or the governing authority of each municipality wholly within the limits of DeKalb County by ordinance and the governing authority of the county by resolution are authorized to create a joint board of zoning appeals. The board of zoning appeals shall consist of seven members appointed by the board of commissioners of the county, the chairman and each commissioner making one appointment. The term of each member shall run concurrently with the person making the appointment. The joint board of zoning appeals shall consist of five members, two of whom shall be appointed by the county governing authority. Vacancies shall be filled for the unexpired term in the same manner as the initial appointment.	Board of Zoning

1985	232	Amended O.C.G.A. 48-8-110 through 121 and 48-8-90. Authorized county governing authority, subject to referendum, to impose a special sales and use tax within the county for a limited period of time.	sales and use tax
1985	3611	Amended MARTA Act of 1965 so as to add three new members and to give the local governing body a total of five members to appoint.	MARTA board
1986	764	Amended O.C.G.A. 36-1-21 regarding service systems for county employees and employees of elected county officers so as to provide that the governing authority of any county is authorized to provide by ordinance or resolution for the creation of a civil service system for employees of the county, other than elected officials or persons appointed to positions for specified terms.	civil service system
1986	1242	Amended O.C.G.A. 31-3-2 regarding membership on county boards of health so as to change the provisions relating to the chief executive officer of the largest municipality of the county being a member and providing that the county governing authority may adopt an ordinance providing that the county governing authority may select the chief executive officer of any municipality within the county to serve as a member on the board of health if the largest municipality of the county lies within an adjoining county.	county boards of health
1986	4107	Deleted provisions whereby CEO and board were to exercise "together" the power and authority vested in the probate court judge when sitting for county purposes and all powers now or hereafter vested in county governing authorities by the Constitution or general laws of the state.	'81 Act Sec Sec 1, Sub 9 (16) and (17)
		Deleted provision empowering CEO to appoint or remove persons filling offices created by state statutes,	Sec. 1, Sub 13(d)

when not otherwise prescribed by such statutes. The CEO may still fix their compensation within budgetary limitations when such statutes authorize or require such compensation to be fixed by county governments or by county governing authorities.

Authorizes the CEO to nominate persons to fill posts or vacancies in any public office when a state law requires appointment by a county governing authority; the CEO shall nominate a person by sending a written notice to the commission specifying the post or vacancy to be filled, the date the post or vacancy is to be filled, the qualifications, if any, which must be possessed by a person filling the post or vacancy, and the name of the person nominated by the CEO; within 20 days after the receipt of the notice from the CEO, the commission must affirm or reject the nominee of the CEO; if the first nominee of the CEO is rejected by the commission, the CEO shall make a second nomination in writing to the commission within ten days after the date of the rejection; within 15 days after the date the second nomination is received, the commission must confirm or reject the second nominee of the CEO; if the second nominee of the CEO is rejected by the commission, the commission shall, within 15 days after the date of the rejection, elect a qualified person to fill the post or vacancy without the necessity of a nomination by the CEO.

Sec. 1,
New Sub. 13A

Provides that the provision whereby running for other elective office creates a vacancy on the board or in the office of CEO no longer requires an act of the General Assembly to be amended. Also provides that new Section 13A (above) could be amended only by an act of the General Assembly.

Sec. 1,
Sub. 4

1986	5685	Amended Ga.L. 1970, p.3097 regarding the DeKalb County Community Relations Commission by providing that it be composed of 21 citizens selected by the CEO with the advice and consent of the members of the Board. The governing authority is authorized to appropriate county funds for use by the Community Relations Commission.	Community Relations Commission
1986	5704	Amended Reorganization Act of 1981 regarding budgeting and control of expenditures to provide that the CEO shall submit a proposed budget to the Board not later than Dec. 15 of each year governing the expenditures of all county funds. In election years, this date can be extended to Jan 15 if the incumbent is not re-elected. The final shall be approved and adopted before March 1 of the year to which it pertains and shall constitute the Board's appropriations of all funds for such year.	budgets and expenditures

Appendix B.

POPULATION ACTS PERTAINING TO DEKALB COUNTY, DESIGNATED
IN VOLUME 42 OF OFFICIAL CODE OF GEORGIA ANNOTATED
AS CURRENT LAW

Administrators (appointment of assistants) 53-6-90 (1982, p.2107,
Sec.53)

Administrators assistant (appointment) 53-6-90 (1981, p.547)

Airport authority established (1947, p.1446)

Alcoholic beverages (minors prohibited in
certain retail establishments) 3-3-24.1 (1982, p.3,
Sec.3(3))

Alcoholic beverages (minors prohibited in
certain retail establishments) 3-3-24.1 (1980, p.3161;
1981, p.1269, Sec.25)

Alcoholic beverages sale regulated 3-3-7 (1982, p.1768;
1984, p.1683)

Alcoholic beverages (sale regulated) 3-3-7 (1981, p.540)

Alcoholic beverages (sale on local election days)
3-3-20 (1982, p.890;
1984, p.1688)

Animals (domestic; local legislation on cruelty) (1979, p.516)

Annexation of unincorporated areas by
municipalities (procedure) 36-36-70 (1982, p.2107,
Sec.39)

Banks (designation of branch banks) 7-1-601 (1970, p.954)

Banks (branch banks, where authorized) 7-1-601 (1975, p.474)

Billiard rooms (licensing and operation) 43-8-16 (1978, p.1488)

Board of education (compensation) 20-2-55 (1981, p.755)

Board of education (financial statement;
audit reports; publication and content) (1981, p.4241;
1969, p.3654)

Board of education (financial statement;
publication and content) (1969, p.3654;
1972, p.2404;
1981, p.4241)

Board of education qualifications 20-2-51 (1982, p.2107, Sec.17;
1984, p.22, Sec.20)

Board of education qualifications (1981, p.602)

Board of education qualifications (1981, p.602)

Bond elections 36-82-1 (1982, p.2107, Sec.43;
1984, p.22, Sec.36)

Bond elections 36-82-1 (1968, p.1007;
1976, p.1091;
1981, p.1581)

Bond elections 36-82-1 (1981, p.1581)

Budget (preparation, adoption) (1953, Jan.-Feb.
Sess., p.2815;
1955, p.2608;
1956, p.3260;
1971, p.3389;
1981, p.3284)

City-county meetings regarding services to
portion of city within county (1976, p.3137)

City-county meetings regarding services to
portion of city within county 36-60-10 (1982, p.2107,
Sec.42)

City court and superior court (judge; motions for new trials)	15-6-21 (1898, p.89; 1916, p.50)
Condemnation (assessor's cost)	22-2-84 (1949, p.1404)
Coroner	45-16-6 (1961, p.153)
County manager (office authorized)	36-5-22 (1974, p.435)
Election Board established	(1967, p.3280)
Election districts	21-2-262 (1982, p.1512)
Elections (board of registrations and elections)	(1981, p.3309)
Elections (board of registrations and elections)	(1980, p.4001)
Elections (return cards for continuance of registration)	21-2-231 (1982, p.2107, Sec.22; 1986, p.32)
Elections (registrars)	21-2-213 (1982, p.2107, Sec.21)
Elections (appointment of registrars)	21-2-213 (1981, p.1238)
Elections (poll officers compensation)	21-2-98 (1982, p.513)
Elections (return cards for continuance of registration)	21-2-231 (1981, p.1238) (1963, p.2930)
Electricians (examination, certification)	25-2-12 (1981, p.1779)
Fire safety standards	25-2-12 (1981, p.1779;
Fire safety standards adopted	1982, p.479; 1984, p.1160; 1985, p.721)
Georgia Bureau of Investigation (assistance to local authorities)	35-3-8.1 (1982, p.3)
Georgia Highway Authority Act (urban county defined)	32-10-1 (1985, p.149)
Georgia Highway Authority Act (urban county defined)	32-10-1 (1973, p.947)
Grand jury (special purpose grand jury authorized)	15-12-102 (1982, p.541)
Grand jury (special purpose grand jury authorized)	15-12-100 to 102 (1976, p.982)
Grand jury proceedings (use of stenographer, recording device)	(1945, p.1017; 1978, p.909)
Grand jury stenographer authorized	15-12-83 (1982, p.2107)
Jurors (traverse; Drawing Act of 1952, p.99 amended)	(1961, p.3000)
Juvenile court established	Ch.15-11 (1971, p.709)
Hospital authority established	31-7-73 (1972, p.683)
Law library established	36-15-12 (1982, p.586)
Library, public (employment of noncertified librarians)	43-24-4 (1937, p.245)
Nuisances (abatement of public nuisances)	31-5-10 (1985, p.388)
Park land (sale, lease, transfer, limitation)	(1951, p.528; 1971, p.3386)
Payment of taxes	48-5-24 (1981, p.533)
Probate court judge's duties regarding election districts	21-2-262 (1982, p.1512)
Probate court judge's duties regarding election districts	21-2-262 (1964, Ex.Sess., p.26)
Probate court judge qualifications	15-9-4 (1986, p.1582)
Probate court judge qualifications	15-9-4 (1986, p.1581)

Probate court judge qualifications	15-9-4 (1979, p.954)
Probate court judge qualifications	15-9-4 (1971, p.3065)
Probate court judge qualifications	15-9-4 (1953, Jan.-Feb.Sess., p.2739;
	1959, p.358;
	1967, p.3020;
	1971, p.3065;
	1979, p.954)
Probation system (statewide;	
participation by county)	42-8-43.1 (1982, p.1605)
Retirement system	(1968, p.3702)
Retirement system (pension rights)	(1953, Nov.-Dec. Sess., p.3000;
	1956, p.2990;
	1968, p.3702;
	1971, p.3393;
	1978, p.4546)
	(1939, p.278;
	1941, p.404;
	1943, pp.459, 463;
	1945, p.1050;
	1946, p.143;
	1947, pp.584, 1629;
	1951, p.531;
	1952, p.2010;
	1953, Jan.-Feb. Sess., p.2786;
	1961, p.3476)
	(1981, p.4238)
Sheriff (Duties Act of 1964, p.2885 amended)	15-16-27 (1982, p.991)
Sheriff (cash bonds)	15-16-10 (1982, p.2107, Sec.14)
Sheriff's duties	(1981, p.4239)
Sold signs on residential property	(1981, p.4239;
Sold signs on residential property	1975, p.4533)
	(1947, p.622)
Stadium authority established	(1972, p.3663;
State court solicitor (compensation)	1981, p.3308)
	15-7-9 (1982, p.618)
State court terms	
Superior court (district attorney	
investigators authorized)	(1963, p.484)
Superior courts (fees for appeals)	15-6-77.3 (1984, p.617)
Superior court (fees for civil cases)	15-6-77.2 (1984, p.500)
Superior court clerk (execution docket	
requirement inapplicable)	15-6-61 (1950, p.108)
Superior court clerk (homestead exemption notice	
to property purchasers)	15-6-64 (1982, p.2107)
Superior court clerk (notation on conveyances	
or liens)	15-6-61 (1982, p.2107, Sec.5)
Superior court clerk (use of facsimile	
signature on conveyances, liens)	15-6-61 (1960, p.196)
Surveyor (place of office)	36-7-7 (1966, p.225)
Surveyor (qualifications)	36-7-2 (1966, p.225)
Taxation (additional board of equalization	
authorized)	48-5-311 (1979, p.519;
	1981, p.1554)
Taxation (board of equalization)	48-5-311 (1984, p.22, Sec.48)

Taxation (payment of taxes)	48-5-24 (1984, p.22)
Taxation (payment of taxes)	48-5-24 (1980, pp.10, 710; 1981, pp.388, 533, 1857)
Taxation (settlement of amounts due)	48-5-141 (1984, p.962; 1986, p.10, Sec.48)
Taxation (weekly report of collections)	48-5-142 (1978, p.309)
Tax collector and commissioner ex officio sheriff (written consent from sheriff not required)	48-5-137 (1985, p.1492)
Tax commissioner (education fund remittance)	48-5-404 (1982, p.1853)
Tax collector/commissioner (written receipts for tax payment)	48-5-127 (1978, p.309) (1937, p.18)
Tax for education purposes	(1960, p.3187)
Treasurer (office abolished)	36-66-1 to 6 (1985, p.1178)
Zoning and Planning	
Zoning and planning laws authorized (Constitutional amendment)	(1937, p.1135)

Appendix C.

DEKALB COUNTY FORM OF GOVERNMENT REORGANIZATION ACTS
OF 1956 AND 1981 AS AMENDED:
A COMPARISON OF THE MAJOR CHARACTERISTICS OF
THE CHIEF EXECUTIVE OFFICER AND COMMISSION

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TOPIC

1956

1981

GOVERNING
AUTHORITY

chairman and board of
commissioners

board of commissioners
and chief executive
officer

COMMISSION
COMPOSITION

seven members, includ-
ing the chairman
(four elected from
commissioner districts,
and the chairman and
two commissioners elect-
ed at large)

seven members (five
district commissioners
and two at large com-
missioners)

(vice
chairman)

vice chairman was
elected annually by the
commission from among
its members to perform
the duties of the
chairman in the event
of the chairman's
death, disqualification,
or resignation until a
new chairman was
elected

(for presiding officer
and deputy presiding
officer, see PRESIDING
OFFICER)

(vacancies)

vacancies in the board
were filled by special
election unless under
180 days left in the
term, in which case the
remaining members of the
board elected a successor
for the unexpired term

vacancies filled by
special election un-
less under 180 days
left in term, in
which case remaining
members of commission
fill vacancy by ap-
pointment

vacancy in the office
of chairman filled by
special election unless
under 180 days left in
the term, in which case
the vacancy was filled
in the general election;
vice chairman served in
interim

four year terms

four year terms

1956

CHIEF
EXECUTIVE
OFFICER

(for chairman as CEO,
see CHAIRMAN/CEO
POWERS)

(vacancy)

PRESIDING
OFFICER
(CEO
serving as)

(for chairman as pre-
siding officer, see
CHAIRMAN/CEO POWERS)

1981

elected from the county
at large and is to de-
vote full time to the
office and have no
other employment

not a member of the
commission

four year term (not
eligible to serve more
than two consecutive
full terms)

vacancy filled by spec-
ial election unless
under 180 days left in
term; if a special
election is required,
the presiding officer
of the commission exer-
cises the powers and
duties of the CEO until
a successor is elected;
if such an election is
not required, the pre-
siding officer exer-
cises the powers and
duties of the CEO for
the unexpired term; in
either case the presid-
ing officer cannot
discharge the executive
assistant or vote as a
member of the commis-
sion

chief executive officer
(CEO) may, at his dis-
cretion, preside at any
regular or special
meeting of the commis-
sion, but has no vote
unless members of the
commission are equally
divided; he can convene
special meetings of the
commission; he can com-
pel attendance of mem-
bers at commission
meetings by subpoena,
subject to commission
policy; he must issue

1956

(election
and duties)

1981

calls for agenda items and prepare and publish a list of those items, which is to serve as the agenda for the commission unless superseded by the commission

each year the commission must elect from its membership a presiding officer and also a deputy presiding officer who presides in the absence of the presiding officer; the member serving as presiding officer or deputy presiding officer retains all rights, powers, and duties as a member of the commission, including the right to vote on questions considered by the commission

the presiding officer presides at commission meetings in the absence of the CEO and has the following additional duties:

to convene special meetings

to appoint members and chairmen of (and fill vacancies in) commission committees, subject to rejection by a majority of the total membership of the commission

to compel attendance of members at commission meetings by subpoena, subject to commission policy

1956

CHAIRMAN/
CEO POWERS

chairman was CEO of the county government and was to generally supervise, direct, and control the administration of the affairs of the county, including enforcement of commission policies, rules, and regulations; he was to preside over meetings of the commission and was entitled to the same voting rights as other members of the board; he could call special meetings of the board

(appointment, removal, and compensation of offices created by statute)

appointment, removal, and compensation of persons filling offices and positions created by state statute were made and fixed by the chairman (where not otherwise prescribed by the statute), subject to commission approval, within budgetary provisions

(commission member contact with departments and agencies)

1981

to exercise such other powers and duties as may be assigned to him by the commission

CEO has exclusive power to supervise, direct, and control the administration of the county government; he must execute and enforce all ordinances, policies, rules, and regulations of the commission

commission members must deal solely through the CEO or his executive assistant in all matters concerning the operation, supervision, and administration of the various departments, offices, and agencies of the county government

no commission member is to directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and

1956

(departments
and agencies)

(appoint-
ment,
removal, and
compensation
of specific
officers)

1981

supervisory control of the CEO; such limitations are not to prevent commission members from seeking information necessary to establishment of policy from any person, including any county employee

subject to the approval of the commission, the CEO has the power to change, consolidate, or abolish any department, agency, or office which he supervises and controls (except that the department of finance must be maintained separate and distinct and cannot be abolished by the CEO or commission); subject to commission approval, the CEO may create other departments, agencies, and offices which are to be under his supervision and control

subject to confirmation by the commission, the CEO appoints the executive assistant, planning director, finance director, merit system director, and county attorney and fixes their compensation within budgetary limitations; neither the commission nor any member thereof can nominate persons for these positions; all these officers serve at the pleasure of the CEO, but may also be discharged for cause by a vote of at

1956

(appointment,
removal, and
compensation
of all county
officials and
employees)

(compensation:
offices
created by
state
statutes)

(appointment
and removal:
offices
created by
other state
statutes)

(for powers of chairman,
see above under CHAIRMAN/
CEO POWERS)

(for powers of chairman,
see above under CHAIR-
MAN/CEO POWERS)

1981

least five commission
members

subject to budgetary
limitations and county
merit system regula-
tions, the CEO has ex-
clusive authority to
appoint, remove, and
fix the compensation of
all employees and offi-
cials of the county,
except employees of the
commission and of elec-
tive county officers

the compensation of
persons filling offices
and positions created
by state statutes must
be fixed by the CEO,
within budgetary limi-
tations, when such sta-
tutes authorize or re-
quire such compensation
to be fixed by county
governments or by coun-
ty governing authori-
ties

(1) whenever any other law
of Georgia authorizes
or requires a county
governing authority
(including any such law
referring to a local
governing body with the
intention of including
a county governing
authority) to appoint
or elect a person to
fill a post or vacancy
in any public office or
as a member of any
public authority,
board, commission, or
other body or agency,
the post or vacancy
must be filled as fol-
lows:

(a) CEO must nominate a
person by sending a

1956

1981

written notice to the commission, and it must specify the post or vacancy to be filled, the date it is to be filled, the qualifications, if any, which must be possessed by a person filling the post or vacancy, and the name of the person nominated;

(b) within 20 days after the notice is received, the commission must confirm or reject the nominee;

(c) if the first nominee of the CEO is rejected by the commission, the CEO is to make a second nomination in writing to the commission within 10 days after the date of the rejection;

(d) within 15 days after the date the second nomination of the CEO is received, the commission must confirm or reject the second nominee;

(e) if the second nominee of the CEO is rejected by the commission, it is to, within 15 days after the date of the rejection, elect a qualified person to fill the post or vacancy without the necessity of a nomination by the CEO;

(2) when a law described in (1) authorizes a person to be removed from office by a county govern-

1956

1981

ing authority, the power of removal may be exercised by the affirmative vote of at least four members of the commission, exclusive of the presiding officer, or by the affirmative vote of three members of the commission and the presiding officer; this power may be exercised by the commission without the concurrence of the CEO, but he may recommend removal to the commission;

- (3) whenever any other law of Georgia authorizes or requires the chairman of the board of commissioners of a county or the elected chief executive officer of a county (by whatever name designated) to hold another office or to serve as a member of any public authority, board, commission, or other body or agency, that law is to be construed to grant such authority or apply such requirement to the CEO;
- (4) whenever any other law of Georgia refers, for purposes other than those described in (3), to the chairman of the board of commissioners of a county or to the elected chief executive officer of a county, (by whatever name designated) that law is to be construed to refer to the CEO

1956

(executive
assistant)

(for executive assistant,
see COMMISSION POWERS)

(executive
assistant:
qualifica-
tions)

1981

subject to specific qualifications (see below), the CEO is to nominate and the commission to confirm the executive assistant who is the chief administrative aide to the CEO and the commission and be responsible to the CEO and commission for the proper administration of county affairs; when directed to do so by the CEO, the executive assistant may exercise any of the administrative duties and powers vested in the CEO by law or by ordinances, rules, and regulations adopted by the commission; the CEO has exclusive power to appoint, remove, and, within budgetary limitations, fix the compensation of two administrators to assist the executive assistant in such a manner as the CEO directs

the executive assistant must hold a college degree in public administration, political science, urban affairs, business administration, engineering, or a related field and must have at least five years of experience in a supervisory capacity as an employee, director, administrator, or manager of a city or county government or a state or federal agency, or equivalent ex-

1956

(investi-
gations)

(inter-
governmental
represent-
ative)

(budget)

each year the chairman
submitted to the commis-
sion a proposed budget

1981

perience in the pri-
vate sector or any
combination thereof

no person is to be
appointed or hold of-
fice as executive as-
sistant who, within two
years immediately pre-
ceding appointment,
has been a candidate
for elective public
office, been the holder
of elective public
office, or held a
management position in
the political campaign
of any candidate for
the office of chief
executive, or any mem-
ber of the commission;
after appointment, the
executive assistant
must not take part in
the management of any
political campaign for
any elective public
office or hold office
in any political party
or body

the CEO has power to
investigate the var-
ious authorities,
boards, councils, com-
missions, committees,
and similar bodies or
agencies whether
created by the commis-
sion or General Assem-
bly, relating to the
affairs of the county
and report thereon to
the commission

the CEO is to repre-
sent the county in
intergovernmental
matters

each year, the CEO must
submit to the commis-
sion a proposed budget

1956

governing the expenditure of all county funds for the following year; the commission reviewed and adopted or amended the budget

(finance
report)

(veto)

COMMISSION
POWERS

the commission had the authority to fix and establish policies, rules, and regulations governing all matters reserved to its exclusive jurisdiction which

1981

governing the expenditure of all county funds for the following calendar year; the commission may adopt the budget as presented by the CEO or amend it as the commission deems necessary to maintain the county in a sound financial condition

the CEO must prepare and submit to the commission a complete annual report on county financial affairs at the close of each fiscal year

the CEO may approve or veto any ordinance or resolution within eight business days after its adoption by the commission (otherwise it becomes effective without any action on his part); the commission can override the CEO's veto by a two-thirds vote of its total membership; the CEO may veto any item or items of any ordinance or resolution making appropriations; the CEO may not veto any zoning ordinance the commission adopts or any rule adopted by the commission regulating its operation

the commission has the power and authority to fix and establish policies, rules, and regulations governing all matters reserved to its jurisdiction; it can

1956

were to be binding on and executed by the chairman; the commission could exercise only those administrative powers necessarily and properly incident to its function as a policy or rule making body or which were necessary to compel enforcement of its resolutions; any action taken by the chairman that conflicted with resolutions dealing with matters exclusively reserved to the commission was null, void, and of no effect; the commission had the power to require reports from all county officers on the general or specific conduct of the financial affairs of their respective offices

(departments)

the commission could create additional county departments or merge departments, except that the department of finance was to be maintained separate and distinct

(appointment, removal, and compensation of officers and employees)

all department heads, chiefs, directors, superintendents, executives, assistants, accountants, attorneys, agents, servants, or employees not covered by the county merit system regulations and who were subject to the jurisdiction of the governing authority were appointed, their salaries

1981

exercise only those powers necessarily or properly incident to its function as a policy or rule making body or which are necessary to compel enforcement of its resolutions or ordinances

1956

1981

fixed, terms of office established, and discharged pursuant to action by a majority of the members of the commission which could, by ordinance, provide a method of nomination to and removal of persons from such offices; all employees covered by county merit system regulations were appointed, promoted, discharged, and their terms of employment and salaries fixed according to merit system regulations or other pertinent regulations adopted by a majority of the members of the commission

(executive assistant)

the commission appointed, by majority vote, an executive assistant to the chairman, whose compensation was fixed by the commission; by ordinance, the commission could provide procedures for the nomination, appointment, and removal of the executive assistant; he was to be the chief administrative aid to the chairman and be responsible to the chairman and to the commission for the proper administration of the affairs of the county; when directed to do so by the chairman, the executive assistant could exercise any of the administrative duties and powers vested in the chairman by law or by ordinances, rules, and regulations adopted by the commission

1956

(executive
assistant:
qualifi-
cations)

the executive assistant was to be chosen on the basis of executive and administrative qualifications, with special emphasis on actual experience in, or education and training in, accepted practices relative to the administration of the affairs of local government; the executive assistant was to hold a degree in public administration, political science, urban affairs, or a related field and had to have five years working experience in a supervisory capacity as an employee, director, administrator, or manager of a city or county government or of any state or federal agency, or any combination thereof;

no person was to be appointed and hold the office of executive assistant who had within a period of two years immediately preceding his appointment, been a candidate for elective public office, a holder of elective public office, or held a management position in the political campaign of any candidate for the office of chairman of the board of commissioners or a member thereof; after appointment, the executive assistant was not to take part in the management of any political campaign for any elective public office or

1981

1956

hold office in any political party or body

the following powers were vested exclusively in the commission:

(taxes and charges)

to levy taxes;
to make appropriations;
to fix the rates of all other charges;

(indebtedness)

to authorize the incurring of indebtedness;

(improvements and assessments)

to order work to be done where the cost was to be assessed against benefited property, and to fix the basis for the assessment;

(contracts)

to authorize contracts, except employment contracts, involving the expenditure of county funds in excess of \$5,000;

1981

the following powers are vested in the commission:

to levy taxes;
to make appropriations;

to fix the rates of all other charges;

to authorize the incurring of indebtedness;

to authorize work to be done where the cost is to be assessed against benefited property and to fix the basis for the assessment;

the CEO establishes rules to regulate purchasing for all county departments, offices, and agencies of the county government; formal sealed bids must be obtained on all purchases exceeding \$7500 unless the vendor has an existing contract or schedule with the state or federal government if the purchase is made pursuant to the price, terms, and conditions of the contract and if the county receives all the benefits of the contract; except for contracts of employment, the commission authorizes all contracts involving the expenditure of county funds in excess

1956

(roads) to establish, alter, or abolish public roads, private ways, bridges and ferries, but the chairman had the authority to accept subdivision plats when the requirements established by the commission for subdivisions were met;

(precincts and militia districts) to establish, abolish, or change election precincts and militia districts;

(insolvent lists) to allow the insolvent lists for the county;

(adoption of optional statutes) to accept, for the county, the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county, or by the commissioner or board of commissioners of the county;

(zoning) to exercise all powers, duties, and authority heretofore imposed upon or vested in the commissioner of roads and revenues of the county, in respect to zoning and planning;

1981

of \$12,500; the dollar limitations specified above may be increased by ordinance, but no other change can be made in the above provisions by the commission;

to establish, alter, or abolish public roads, private ways, bridges and ferries, but the CEO has the authority to accept subdivision plats when the requirements established by the commission for subdivisions have been met;

to establish, abolish, or change election precincts and militia districts;

to allow the insolvent lists for the county;

to authorize the acceptance for the county of the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;

to regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality and general welfare of the county and its citizens, provided, however, that no

1956

(tax districts)	to create and change the boundaries of special taxing districts;
(officer's bonds)	to fix the bonds of county officers where not fixed by statute;
(prospective authority)	to enact any ordinances or other legislation the county may be given authority to enact;
(capital improvements)	to determine the priority of capital improvements;
(bonds)	to call elections for the voting of bonds;
(residual powers)	to exercise all of the power and authority heretofore vested by law in the judge of the probate court when sitting for county purposes, and heretofore delegated by law to the commissioner of roads and revenues of the county, together with all power and authority which may hereafter be delegated by law to the governing authority of the county, by whatever name designated;
(licensing)	to fix, levy, and assess license fees, charges, or

1981

planning or zoning ordinance can become law unless approved by the member of the commission representing the district in which the subject property is located, or by one of the commissioners elected at large;

to create and change the boundaries of special taxing districts authorized by law;

to fix the bonds of county officers where not fixed by statute;

to enact any ordinances or other legislation the county may be given authority to enact;

to determine the priority of capital improvements;

to call elections for the voting of bonds;

except as modified by the powers vested in the CEO, to exercise the power and authority vested by law in the judge of the probate court when sitting for county purposes;

except as modified by the powers vested in the CEO, to exercise the powers now or hereafter vested in county governing authorities by the constitution and general laws of Georgia;

to fix, levy, and assess license fees, charges, or

1956

taxes on persons and firms engaging in a trade, business, calling, or profession;

(commission rules)

(for rules regulating commission operation, see COMMISSION POWERS)

(police powers)

commission was empowered to adopt all ordinances and regulations that it deemed advisable not in conflict with general laws for governing and policing the county for protecting the health, safety, welfare, and morals of county citizens with regard to all road vehicles, the keeping of animals, zoning, building codes, protection of county property, fire safety, the erection of structures or obstructions near roads in unincorporated areas of the county, prevention of public disorder, and could prescribe penalties for the violation of these ordinances;

(audits)

to employ a certified public accountant to make an annual continuous audit of county finances and financial records.

1981

taxes on persons and firms engaging in a trade, business, calling, or profession;

to adopt rules regulating the operation of the commission;

the commission may adopt all such ordinances or regulations as it may deem advisable, not in conflict with the general laws of the state or U.S., for the governing and policing of the county for the purpose of protecting and preserving the health, safety, welfare, and morals of the citizens of the county and for the implementation and enforcement of the powers and duties of the commission;

to choose three commission members to serve as an audit committee to screen and recommend to the commission an independent auditing firm to serve as an outside auditor of the county government to make an annual continuous general audit of all county finances and financial records.